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TRIAL

OF

ANTHONY JAMES PYE MOLLOY, Esq.

CAPTAIN OF HIS MAJESTY's SHIP CÆSAR.

MINUTES

OF THE

PROCEEDINGS

AT

A COURT MARTIAL,

ASSEMBLED FOR THE TRIAL

OF

Anthony James Pye Molloy, Esq.

CAPTAIN OF HIS MAJESTY'S SHIP CÆSAR,

AS TAKEN BY

M. GREETHAM, Jun. Esq.

OFFICIATING JUDGE ADVOCATE.

PUBLISHED BY PERMISSION OF THE RIGHT HONOURABLE LORDS COMMISSIONERS OF THE ADMIRALTY.

LONDON:

SOLD BY J. DEBRETT, PICCADILLY; T. HEPTINSTALL, NO. 131, FLEET STREET; J. MOTTLEY, PORTSMOUTH; W. HAYDON, PLYMOUTH; AND J. ETHERINGTON, CHATHAM.

1795.

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MINUTES

Taken at a Court Martial aſſembled on board His MAJESTY's Ship Glory, in Portſmouth Harbour, on the 28th Day of April, and continued by Adjournment, from Day to Day (Sundays excepted) until the 15th Day of May, 1795.

PRESENT

JOSEPH PEYTON, Eſq. Vice Admiral of the Red,
And Second Officer in the Command of His MAJESTY's Ships and Veſſels at Portſmouth and Spithead,
PRESIDENT,

Vice Admiral Sir RICHARD KING, Baronet,
Vice Admiral CHARLES BUCKNER,
Rear Admiral JOHN COLPOYS,
Captain FRANCIS PARRY,
Captain CHRISTOPHER PARKER,
Captain CHARLES POWELL HAMILTON,
The Right Hon. Lord CHARLES FITZGERALD,
Captain ALEXANDER GREENE,
Captain ANDREW MITCHELL,
Captain CHARLES MORICE POLE,
Captain Sir ERASMUS GOWER, Knt.
Captain JAMES RICHARD DACRES,

Captain ANTHONY JAMES PYE MOILOY, Commander of His MAJESTY's Ship Cæſar, was brought in, and Audience admitted.

The Order from the Commiſſioners for executing the Office of Lord High Admiral of Great Britain and Ireland, &c. for

the assembling the Court Martial, was then read by the Judge Advocate as follows:

" By the Commissioners for executing the Office " of Lord High Admiral of Great Britain and " Ireland, &c.

" WHEREAS the Earl Howe, Admiral and Commander " in Chief of his Majesty's Fleet, employed, and to be em- " ployed, in the Channel Sounding, or wherever else his Ma- " jesty's Service shall require, did, in his Letter to the then " Secretary of the Admiralty, dated the 8th of July last, trans- " mit a Letter, dated the 30th of the preceding Month, " which his Lordship (the said Earl Howe), had received from " Captain Anthony James Pye Molloy, setting forth, that " having observed in his Lordship's Public Letter, published " in the Gazette of the 21st of that Month, a Paragraph, " wherein his Majesty's Ship Cæsar, under his Command, is " censured for not having kept to the Wind, when the Signal " was made for passing through the Enemy's Line on the 29th " of May last, and requesting his Lordship would give him an " Opportunity of accounting for his Conduct therein at a " Court Martial:

" And whereas his Lordship did, in his said Letter, recom- " mend that (if the Lords Commissioners of the Admiralty " should be pleased to comply with Captain Molloy's Request), " the Attention of the Court by which he should be tried, " might be also directed to an Enquiry into the whole of his " Proceedings with the Cæsar on that Day, and likewise on the " 1st of June ensuing, for enabling the Court fully to determine " the Merits of his Conduct in the Discharge of his Duty on " those Occasions: And whereas his Lordship, in a subsequent " Letter of the 25th of the same Month of July (in reply to " one from the said Secretary), suggested that his Motives for " recommending, in his former Letter, the Attention of the " Court to be directed to an Enquiry into the whole of " Captain Molloy's Proceedings with the Cæsar on the Day " before mentioned, respected the Tenor of the Reports from " the Admirals Graves, Pasley, and Gardner, on the Conduct " of the Ships of their Divisions in Action with the Enemy; " the Two former continued by Captains Nichols and Hope, " after the Admirals, under whom they were serving in the " Sovereign and Bellerophon, were wounded; and therefore " requested that those Reports, or Extracts of such Parts as " relate to the Proceedings and Conduct of Captain Molloy, " together with that from Captain Molloy, which said several [illegible]ports, accompanied a Letter from his Lordship to the

" said

" ſaid Secretary of the 6th of June laſt), might be tranſmitted
" with the Order to aſſemble the Court Martial, and that the
" Attention of the Court might be directed to the Matter
" thereof, as the Grounds of his Opinion, 'That Captain
" Anthony James Pye Molloy did not uſe his utmoſt Endea-
" vours to paſs through the Enemy's Line on the 29th of laſt
" May, and did not appear to have taken proper Station for
" coming to cloſe Action with the Enemy on the 1ſt of June
" enſuing, prior to, or in compliance with, the Signals made to
" him for thoſe Purpoſes, and conſequently omitted to exert
" his utmoſt Endeavours for the Defeat of the Enemy on thoſe
" Occaſions.' And whereas we think fit that a Court Mar-
" tial ſhall be aſſembled for the Purpoſe abovementioned, we
" ſend you herewith the Earl Howe's ſaid Letters on the 8th
" and 25th of July laſt, together with Captain Molloy's Let-
" ter incloſed in the former, and the Reports referred to in
" the laſt-mentioned Letter; and do hereby require and direct
" you to aſſemble a Court Martial on board ſuch one of his
" Majeſty's Ships at Portſmouth, or Spithead, as you ſhall
" judge proper, on Monday the Twenty-ſeventh Day of this
" Month (provided the Witneſſes on the Part of the Accuſer
" and Accuſed ſhall then be ready; but if not, as ſoon after-
" ward as they ſhall be ſo), which Court, you being Preſident,
" is hereby required and directed to enquire into the Conduct
" and Proceedings of the ſaid Captain Anthony James Pye
" Molloy, with his Majeſty's Ship Cæſar, on the 29th of May
" and 1ſt Day of June laſt, and more particularly into the
" Charges contained in the Earl's ſaid Letter of the 25th of
" July laſt, and to try him for the ſame.

" Given under our Hands, the 25th of April, 1795.

(Signed) " SPENCER,
" ARDEN,
" CHARLES MIDDLETON,
" PHILIP STEPHENS."

To Joſeph Peyton, Eſq. Vice Admiral of the Red, and Second Officer in the Command of his Majeſty's Ships and Veſſels at Portſmouth and Spithead.

By Command of their Lordſhips,
EVAN NEPEAN.

A Letter from the Honourable William Cornwallis, Vice Admiral of the Blue, dated 28th Day of April, 1795, and addreſſed to the Preſident, was then read by the Judge Advocate as follows:

"SIR, "PORTSMOUTH, *April* 28, 1795.

"I BEG leave to acquaint you that I am lame, and have "not been out of my Room theſe Two Days; I therefore do "not conſider myſelf at preſent able to go on board, and at- "tend my Duty as a Member of the Court Martial at which "you are to preſide; the Surgeon of the Royal Sovereign will "(if called upon), relate any particular Circumſtances you may "deſire to be informed of.

"I have the Honour to be, Sir,

"Your moſt obedient humble Servant,

"WM. CORNWALLIS."

To Vice Admiral Peyton,
&c. &c. &c.

Mr. Thomas Kain, Surgeon of his Majeſty's Ship Royal Sovereign, being called in, and ſworn to ſpeak the Truth to ſuch Queſtions as ſhould be aſked him by the Court relative to the Indiſpoſition of Vice Admiral Cornwallis,

The Court aſked,

Q. Give the Court an Account of the State of his Health. —A. He has been confined Two Days in his Room, and not able to walk.

Q. Would his attending the Court be attended with bad Conſequences of his Health?—A. It might.

Q. Do you mean to ſay it would be prejudicial to him?—A. I think his moving now might be attended with bad Conſequences.

The Court, and the Judge Advocate, then, in open Court, and before they proceeded to Trial, reſpectively took the ſeveral Oaths enjoined and directed in and by an Act of Parliament made and paſſed in the Twenty-ſecond Year of the Reign of his late Majeſty King George the Second, intitled "An Act for amending, explaining, and reducing into One Act of Parliament, the Laws relating to the Government of his Majeſty's Ships, Veſſels, and Forces, by Sea."

A Letter from Admiral Earl Howe to Philip Stephens, Eſq. then Secretary to the Admiralty, dated the 8th of July, 1794, and an Incloſure from Captain Molloy to his Lordſhip, dated the 30th of June

June preceding; alſo another Letter from his Lordſhip to Mr. Stephens, dated the 25th of July, 1794, were ſeverally read by the Judge Advocate as follows:

" SIR, " LONDON, *July* 8, 1794.

" ENCLOSED herewith, I tranſmit an Application from " Captain Molloy, dated the 30th paſt, by which he requeſts " to be allowed an Opportunity to account, at a Court Martial, " for his Conduct, in not having kept to the Wind when the " Signal was made for paſſing through the Enemy's Line, in " the Action of the 29th of laſt May; and if it ſhould be the " Pleaſure of the Lords Commiſſioners of the Admiralty, that " his Requeſt therein ſhould be complied with, I have to re- " commend that the Attention of the Court by which he is " tried, may be alſo directed to an Enquiry into the whole of " his Proceedings with the Cæſar on that Day, and likewiſe " on the 1ſt of June, for enabling the Court fully to deter- " mine on the Merits of his Conduct, in the Diſcharge of his " Duty on thoſe Occaſions.

" I am, Sir,
" Your moſt obedient
" Humble Servant,
" HOWE."

To Philip Stephens, Eſq.
Secretary, &c. &c.

" CÆSAR, *Spithead, June* 30, 1794.

" MY LORD,

" HAVING obſerved in your Lordſhip's Public Letter, " publiſhed in the Gazette on the 21ſt inſt. a Paragraph " wherein his Majeſty's Ship Cæſar, under my Command, is " cenſured for not having kept to the Wind when the Signal " was made for paſſing through the Enemy's Line on the 29th " of May laſt, I requeſt your Lordſhip will give me an Oppor- " tunity for accounting for my Conduct therein at a Court " Martial.

" I ſhould have made this Application to your Lordſhip " more early, but thought it more reſpectful and dutiful to " my Sovereign, to wait until his Majeſty's Viſitation of the " Fleet was over.

" I am,
" My Lord,
" Your Lordſhip's
" Moſt obedient humble Servant.
" A. J. P. MOLLOY."

To Earl Howe.

" SIR,

" SIR, " LONDON, *July* 25, 1794.

" IN conſequence of your Letter of the 21ſt Inſtant, adviſing me of the Intentions of the Lords Commiſſioners of the Admiralty, that their Appointment of a Court Martial for the Trial of Captain Molloy, purſuant to his Requeſt, ſhould take Effect when I have prepared the Charges I had to exhibit againſt him, touching the Proceedings and Conduct on the 29th of laſt May, and enſuing 1ſt of June; I am to ſubmit, in reply thereto, that my Motives for recommending that the Attention of the Court might be directed to an Enquiry into the whole of Captain Molloy's Proceedings with the Cæſar at thoſe Times, reſpect the Tenor of the Reports from the Admirals Graves, Paſley, and Gardner, on the Conduct of the Ships of their Diviſions in Action with the Enemy; the Two former continued by the Captains Nicholls and Hope, after the Admirals, under whom they were ſerving in the Sovereign and Bellerophon, were wounded; I am therefore to requeſt that theſe Reports (or Extracts of ſuch Parts as relate to the Proceedings and Conduct of Captain Molloy, with the Cæſar, on the Days already mentioned), together with that from Captain Molloy, incloſed with my Letter to you of the 6th of June paſt, may be tranſmitted with the Order to aſſemble the Court Martial, and that the Attention of the Court may be directed to the Matter thereof, as the Grounds of my Opinion, that Captain Anthony James Pye Molloy did not uſe his utmoſt Endeavours to paſs through the Enemy's Line on the 29th of laſt May, and did not appear to have taken a proper Station for coming to cloſe Action with the Enemy on the 1ſt of June enſuing, prior to, or in compliance with, the Signals made to him for thoſe Purpoſes, and conſequently omitted to exert his utmoſt Endeavours for the Defeat of the Enemy on thoſe Occaſions.

" I am, Sir,
" Your moſt obedient
" Humble Servant,
" HOWE."

To Philip Stephens, Eſq.
&c. &c. &c.

The before-mentioned Reports of Admirals Graves, Paſley, and Gardner, were read.

Then the Reports of Captain Molloy was read as follows:

Obſervations and Proceedings of his Majeſty's Ship Cæſar on the 28*th and* 29*th of May, and the* 1*ſt of June,* 1794.

" ON the 28th, when the Signal was made for a general Chaſe, and to attack the Rear of the Enemy, we were not

" able

" able to fetch up far enough to windward to come to Action
" with them, though ſeveral of their Shot paſſed over us,
" ſome of which cut the Foreſail and Maintop-ſail. At Six
" we ſaw the Bellerophon cloſely engaged with the rear Ship
" of the Enemy, keeping up a briſk Fire, and behaving moſt
" nobly; but having loſt the Maintop-ſail Yard, ſhe edged
" down towards the Fleet, and the Leviathan then got up a-
" longſide of the rear Ship of the Enemy. and began a cloſe
" and heavy Fire, and continued engaged with her a conſidera-
" ble Time—the Ruſſel, Thunderer, and ſeveral other Ships,
" alſo fired on the Rear of the Enemy. A little after Eight,
" the Rear Ship of the Enemy bore up, out of the Line, and
" I concluded that ſhe had ſtruck—at Half paſt Eight ſhe ap-
" peared to me to be on Fire in one of her Tops.

" On the 29th, at Dawn of Day, ſaw the Enemy's Fleet,
" conſiſting of Twenty-ſix Sail of the Line, on our Weather
" Beam—at Half paſt Four the Signal, No. 55, being made
" to form the Line as moſt convenient, made Sail, and took our
" Station a-head, as leading Ship, the Queen being next to
" us on the Line—at Half paſt Six tacked Ship per Signal, in
" Succeſſion, and formed on the Larboard Tack—at Seven
" the Four rear Ships of the Enemy, in croſſing on different
" Tacks, opened their fire upon the Queen and us; finding
" their Shot going over us, and through our Sails, we returned
" their Fire, as did the Queen. The Enemy's Fleet having
" wore in Succeſſion, and formed on the ſame Tack with us,
" ſtood along our Line, and edged down—at Half paſt Eight
" our Signal being made to make more Sail, let the Third Reef
" out of the Maintop-ſail, in doing which the Sail ſplit all the
" Way down, from the Earing to the Clew, owing to its having
" been ſhot the Night before, unbent the Sail immediately,
" and got a new Sail to the Yard, before the Van Ship of the
" Enemy came abreaſt of us—at Ten the Van and Centre of
" the Enemy began to engage—Half paſt Ten the Van Ship
" of the Enemy being abreaſt of us, and keeping up a heavy
" Fire on us, we began to engage, and, by the Quickneſs of
" our Fire, ſlackened her's conſiderably—at Eleven our Signal
" was made to tack, and, whilſt we were preparing to do ſo,
" the Signal was annulled—at Twelve o'clock the Van Ship of
" the Enemy, our Opponent, appeared to be ſilenced, as ſhe
" did not fire a ſingle Shot at us for a Quarter of an Hour,
" but hauled her Main Tack on board, and kept a cloſe Wind;
" in doing of which, we ſhot away her Main Tack and Wea-
" ther Foretop-ſail Sheet, which cauſed her to drop nearer to
" us, and we continued a heavy Fire upon her. At this Time

" our

" our Signal was again made to tack, but as our Fore-yard
" was nearly ſhot through, the Main-ſtay ſhot away, and the
" Queen little more than a Cable's length a-ſtern of us, and
" a heavy head Sea running, I thought it dangerous to at-
" tempt tacking: I therefore made the Signal of Inability to
" tack, but wore Ship immediately, and then hauled to the
" Wind on the Starboard Tack, under the Stern of the Fifth
" Ship in our Van: in the Act of wearing, the Van Ship of the
" Enemy fired ſeveral raking Shot at us. At this Time I ob-
" ſerved the Signal, No. 34, out; but as our Fore-yard was
" nearly gone in two, and our Weather Bumpkin Block and
" Foretack being ſhot away, the Sail blowing upon the Yard,
" and Eight Sail of the Enemy's Ships cloſing each other, and
" edging down towards us, I found it impracticable to paſs
" through their Line, I therefore kept on to leeward of it,
" firing at and receiving the fire of every Ship of the Line as
" we paſſed; but obſerving many of our own Ships to leeward
" (not being able to ſee us for the Smoke), kept firing at us,
" and having cut away our Lee-main-tack and ſheet, and hulled
" us twice, I ceaſed firing that they might ſee my Colours,
" and made the People lay down to prevent their being ex-
" poſed to the Enemy's Fire, and did not again fire till I was
" too far to windward for the Shot of our Ships to reach us;
" having then ſpliced the Fore-tack, and got a Block at the
" Bumpkin End, and hauled to the Wind, we fetched cloſe up
" to the Three Rear Ships of the Enemy's Line, on which we
" kept a briſk Fire till they paſſed us. After our Firing ceaſed I
" obſerved the Queen, Invincible, and Bellerophon, had alſo
" run to leeward of the Enemy's Line as we had, and
" that the Queen Charlotte *alone* had cut through the Enemy's
" Line, and was cloſely engaged then with ſeveral of them;
" after ſhe had paſſed them all ſhe tacked, and made a general
" Signal to chaſe, upon which we wore, and came to the Wind
" on the Larboard Tack; but, from our Rigging being very
" much cut, our Main and Mizen-ſtays ſhot away, and expect-
" ing every Minute our Fore-yard to come down, the Lar-
" board-yard-arm having been ſhot quite through, we could
" make but very little Sail; all we could ſet was ſet. In this
" Action we had Three Men killed and Nineteen wounded,
" and Three Guns diſabled, Two of which, (Twenty-four
" Pounders), we threw overboard; and the Ship made ſo much
" Water that it was with Difficulty we could keep her free,
" for, until we had ſtopped ſome of the principal Shot Holes,
" the Leaks were gaining upon the Pumps.

" The 1ſt of June, at a Quarter paſt Eight, bore up per Signal,

" to

" to attack our Opponent in the Enemy's Line—at Twelve
" Minutes paſt Nine, the Three Van Ships of the Enemy's
" Line began firing upon us, the Fourth and Fifth firing at
" the Bellerophon, who appeared to me to be cloſe alongſide the
" Fourth Ship, but ſtanding on towards their Van—at Twenty-
" five Minutes paſt Nine backed the Maintop-ſail, and opened
" our fire on the Van Ship of the Enemy's Line, upon which
" their Second Ship cloſed to the Firſt, and both Ships kept
" a heavy Fire upon us, which we returned as quick as poſſible;
" a ſhort Time after not ſeeing our Opponent for the Smoke,
" I ceaſed firing; and as it cleared away I obſerved that they
" had edged down from us, and increaſed their Diſtance: I
" therefore ordered the Mizentop-ſail to be backed, and the
" Helm to be put hard aport, and told the Maſter (who was
" at the Compaſs), to ſteer cloſe down on the Weather Bow
" of the Van Ship: the Men at the Wheel, at that Moment,
" called out that the Rudder was choaked, and that they
" could not move it either Way; we then ſquared our Fore-
" yard, and lay with our Three Top-ſails to the Maſt: our
" Signal was, at that Inſtant, made by the Bellerophon to come
" to cloſe Action; our Mizen-yard was ſhot in two, and the
" Mizen-maſt quite through and through, and we expected
" every Moment it would fall. In this extreme awkward Situa-
" tion we lay for more than Thirty Minutes, with our Signal
" flying to come to cloſe Action. I want words to expreſs the
" Pain and Anxiety of Mind I laboured under all the Time,
" I ordered the Foretop-ſail to be filled, and the Foretop-maſt-
" ſtay-ſail to be hoiſted, to run down cloſe to the Enemy; but
" the Maſter very properly ſaid, if we get before the Wind, and
" the Rudder continues fixed, as it now is, we cannot again
" bring her to, as we can ſet no After-ſail; and we therefore
" continued with the Three Top-ſails aback, engaged with the
" Two Van Ships, but at a greater diſtance than I wiſhed; the
" Carpenter, Maſter, and Three Lieutenants, went to examine
" the Cauſe of the Obſtruction of the Rudder, and the Car-
" penter reported to me, that Two Shot had ſtruck the Rud-
" der, One of which was lodged between the Sternpoſt and
" the Rudder, but that that did not appear to him to obſtruct
" the Movement of it; ſoon after we diſcovered that a Shot
" had driven a Splinter and a Part of One of the lower Deck
" Port Ropes into the Starboard Quarter Block of the Tiller
" Rope, which had jammed the Rope in the Sheave; as ſoon
" as it was clear, we filled the Foretop-ſail, and bore round upon
" the Van Ship of the Enemy, and got cloſe alongſide, and
" kept a heavy Fire on her till ſhe bore away before the Wind:
" the Ship's Company ſeeing it, in the Eagerneſs of their Joy,

" which I could not reſtrain, ran upon Deck on the Booms " and Starboard Gangway, and gave Three Cheers, during " which Time the Second Ship of the Van fired at us, and " wounded ſeveral Men. I ordered the People to return to " their Quarters, and we backed cloſe down on the Second " Ship; but we had ſcarce fired on her when ſhe alſo bore " away, with as much Sail as ſhe could ſet; the Third Ship, " with which the Bellerophon was then engaged, fired a few " Shots at us, which we returned, and ſoon after all her Maſts " went away together; on looking round after this, I ſaw " ſeveral Ships diſmaſted, and the Royal Sovereign about Half " a Mile to leeward of us, with the Signal flying for Ships to " cloſe round him: I then bore down to him, and ſhortly after " the Signal was made to come to the Wind on the Starboard " Tack. The only Obſervations I made during the Action " were of the very ſpirited and noble Conduct of Rear Ad- " miral Paſley and Lord Hugh Conway, the Bellerophon and " Leviathan being the only Ships I took Notice of during the " whole of the Action.

" Killed - - - - - - - - -	15
" Died this Day - - - - - - -	3
" Unfit to come to Quarters - -	37

" A. J. P. Molloy."

The Preſident then deſired the Judge Advocate to ſtate whether he had received any Letter from Admiral Earl Howe, to account for his not appearing to conduct the Proſecution.

The Judge Advocate ſtated that he underſtood that Sir Roger Curtis intended to addreſs the Court on that Subject.

Sir Roger Curtis ſtated, that Earl Howe was too ill to attend the Court in the Conduct of the Proſecution, and as Captain Molloy had in a Letter to the Lords Commiſſioners of the Admiralty, deſired, in caſe of Inability in Earl Howe to attend, that he (Sir Roger Curtis), as Firſt Captain of the Channel Fleet, might conduct it, he was ready to do ſo.

Captain Molloy ſaid that he had not the leaſt Objection to Sir Roger Curtis's conducting the Proſecution, in the Abſence of Admiral Earl Howe.

The Court was then cleared, and agreed that Sir Roger Curtis ſhould be permitted to conduct the Proſecution.

Captain Robert Barlow, of His Majeſty's Ship Aquilon, called in, and ſworn.

Sir Roger Curtis aſked:

Q. Were you Captain of the Pegaſus on the 29th of May laſt?—A. I was.

Q. Was

Q. Was your Ship then with the Fleet?—A. She was.

Q. Where was your Ship ſituated on that Day?—A. Her Station was abreaſt of the Queen Charlotte, to repeat the Signals of the Commander in Chief; ſhe was to leeward of the Britiſh Line.

Sir Roger Curtis produced a Paper Writing to the Court, intitled, The Principal Signals made by Admiral the Earl Howe on the 29th of May, and on the 1ſt of June laſt, and then aſked,

Is the Statement contained in this Paper true?—A. Yes, it is.

It was then ſigned by Captain Barlow, and is as follows:

The Principal Signals made by Admiral the Earl Howe on the 29th of May, and on the 1ſt of June laſt.

29th MAY, 1794.

Time of being repeated by the Pegaſus. H. M.	Aquilon. A. M. H. M.	Latona. H. M.	No. of the Signals.	Significations.
3 58	3 40	3 58	55	To form in Line of Battle ahead and aſtern of the Admiral, as moſt convenient.
6 58	6 50	6 45	78	The Fleet to tack in Succeſſion. (Mem. it was then to change to the larboard Tack).
7 24	7 13	7 15	34	The Admiral means to paſs through the Enemy's Line to obtain the Weather Gage. *N. B.* The different Captains and Commanders not being able to effect the ſpecified Intention, are at Liberty to act as Circumſtances require.
7 36	7 22	7 25	28	That the Ships of the Fleet are at Liberty to fire upon the Enemy in paſſing them, though not propoſed to bring them to general Action immediately.
8 18	7 55	7 56	67	The Cæſar to make more Sail.
8 24	8 20	8 20	67	Ditto, ditto.
11 43	11 16	11 45	78	The Fleet to tack in Succeſſion.
11 53	11 25	11 55	"	To annul that Signal.
11 55	- -	- -	-	The Ships aſtern to open to a greater Diſtance.

Time of being repeated by the Pegaſus.	Aquilon.	Latona.	No. of the Signals.	Significations.
	P. M.			
H. M.	H. M.	H. M.		
12 9	- -	- -	-	The Ships aſtern to open to a greater Diſtance.
12 35	12 20	12 25	78	The Fleet to tack in Succeſſion.
1 21	- -	- -	-	Pegaſus ſignified to the Admiral that the Cæſar was upon the ſtarboard Tack.
1 30	1 12	1 15	34	That the Admiral means to paſs through the Enemy's Line, to obtain the Weather Gage.
				N. B. The different Captains, &c. &c. &c. as above.

1ſt JUNE, 1794.

Time of being repeated by the Pegaſus.	Latona.	No. of the Signals.	
	A. M.		
H. M.	H. M.		
7 9	7 12	49	The Fleet to form in Order of Battle, on the larboard Line of bearing.
7 20	7 26	34	That the Admiral means to paſs through the Enemy's Line for engaging them to leeward.
			N. B. The different Captains, &c. as before.
8 18	8 16	36	Each Ship of the Fleet to ſteer for, independently to each other, and engage reſpectively the Ship oppoſed in Situation to them in the Enemy's Line.
9 15	9 20	5	For cloſer Action.
9 57	- -	7	The Fleet to cloſe.
10 41	- -	102	The Fleet to cloſe to the Admiral.

(Signed) ROBERT BARLOW.

Q. Upon what Tack was the Britiſh Fleet when the Signal to form in Order of Battle ahead and aſtern of the Admiral, as moſt convenient, was repeated by you, at 3 Hours 58 Minutes, on the 29th of May?—A. On the Starboard Tack.

Q. Was

Q. Was the Enemy's Fleet then to Windward of the Britiſh Fleet?—A. It was.

Q. Upon what Tack was the Britiſh Line when you repeated the Signal for the Fleet to tack in Succeſſion, at 12 Hours 35 Minutes, P. M.?—A. On the Starboard Tack.

Q. Was the Enemy's Fleet then to Windward of the Britiſh Fleet?—A. It was.

Q. What Ship led the Britiſh Line on that Day?—A. The Cæſar.

Q. What Ship followed the Cæſar?—A. The Queen.

Q. What Ship followed the Queen?—A. The Ruſſel.

Q. Did you ſee the Cæſar after ſhe wore from the Starboard Tack, in Conſequence of the Signal to tack in Succeſſion, on the 29th of May?—A. I ſaw her after ſhe had paſſed through the Britiſh Line.

Q. Be pleaſed to relate to the Court your Obſervations on her?—A. I obſerved that ſhe was ſteering from the Wind; and I judge, from that Circumſtance, ſhe muſt be very much damaged, more particularly as ſhe pointed towards the Queen Charlotte.

Q. Did you ſee any apparent Damages in the Ship?—A. None but Shot-holes in her Sails.

Q. What Sail had ſhe ſet?—A. I am not certain.

Q. Was her Main-ſail ſet?—A. I think not.

Q. Was her Jib ſet?—A. I don't recollect.

Q. Her Maintop-maſt Stay-ſail ſet?—A. I don't recollect.

Q. How many Reefs had ſhe in her Top-ſail, to the beſt of your Judgment?—A. I don't recollect.

Q. Did you ſee the Cæſar's Fore-ſail blow up upon the Yard?—A. No.

Q. Was the Sail that the Cæſar carried, to all Appearance to you, perfectly and properly ſet?—A. I did not obſerve that it was otherwiſe.

Q. Did you, when you ſaw the Cæſar to windward of the Britiſh Line, as you have before deſcribed, make any Obſervations upon her to any Officer of your Ship?—A. I obſerved to the Firſt Lieutenant, that the Cæſar muſt have received ſome material Damage, as ſhe ſeemed ſteering to ſpeak to the Queen Charlotte.

Q. How many Points, in your Judgment, was the Cæſar then ſteering from the Wind?—A. My Obſervations were confined to a very ſhort Period; but at the Time I allude to, ſhe muſt have been four Points from the Wind.

Captain Molloy aſked:

Q. Did you ſee the Cæſar before ſhe wore, when engaged with the Van Ship of the Enemy?—A. I ſaw her at Intervals engaging.

Q. After ſhe had wore, did ſhe go to windward of the Queen Charlotte, and at what Diſtance?—A. She did go to windward; but I was not in a Situation to judge diſtinctly of the Diſtance.

Q. Had the Queen wore at the Time the Cæſar paſſed the Queen Charlotte?—A. I do not recollect.

Q. As you have ſaid that the Cæſar paſſed through the Britiſh Fleet,

Fleet, how far was the Queen Charlotte to leeward of the laſt Ship of the Engliſh Van, between which Ship, and the Queen Charlotte, the Cæſar paſſed?—A. I was ſo far to leeward as not to be able to form any Judgment on that Point.

Q. You have ſaid that at a particular Time you obſerved the Cæſar to have been four Points from the Wind; was there, at that Time, any Signal made from the Queen Charlotte, or repeated by you, for that Ship, addreſſed to the Cæſar, to make more Sail, or to keep more to the Wind?—A. Not at that Time.

Q. Was there, at any other Time, while the Cæſar was paſſing to leeward on the 29th, after ſhe had wore?—A. No; not after ſhe had wore.

Q. Did you obſerve any of the Ships of the Britiſh Line, to leeward of the Cæſar, fire at her by Miſtake?—A. No.

Q. Did the Ships aſtern of the Queen Charlotte fire at the Enemy, previous to the Queen Charlotte tacking?—A. I do not recollect whether they did or not.

Q. Did the Cæſar paſs to windward of every Ship of the Britiſh Line aſtern of the Queen Charlotte?—A. Yes.

Q. After the Queen Charlotte had tacked, and the Ships aſtern of her in Succeſſion, did they then fire at the Enemy?—A. They did; the Ships that tacked after the Queen Charlotte did.

Q. Was the Cæſar between them and the Enemy?—A. Not between the Ships that tacked after the Queen Charlotte and the Enemy.

Q. Where was the Cæſar then?—A. The Cæſar was ahead of the Queen Charlotte, and I allude to Ships that were aſtern of her.

Q. Did you ſee the Cæſar after that, engaged with the French Line, running along it?—A. I made no Obſervations upon the Cæſar after ſhe paſſed the Queen Charlotte, except that ſhe was ahead of her, and that ſhe paſſed to windward of all the Britiſh Ships.

Q. At the Time you particularly ſaw the Cæſar paſs to windward of the Queen Charlotte, was any Ship whatever near her, and on the ſame Tack with her?—A. I don't recollect that there was any Ship very near to her at that Time, and on the ſame Tack.

Q. Was the Signal made to tack in Succeſſion when I wore?—A. It was made a ſhort Time before.

Sir Roger Curtis deſired to put a Queſtion.

Captain Molloy ſaid, that he underſtood that the Proſecutor had finiſhed his Examination, before he began his Croſs-Examination of the Witneſs, and therefore ſuppoſed that the Proſecutor had not a Right to go into another Examination of him.

The Court was cleared, and agreed that the Proſecutor had a Right to croſs-examine the Witneſs upon the Matter brought out by the Priſoner, but not to go into new Matter.

The Court was again opened.

The Court aſked:

Q. When you particularly ſaw the Cæſar paſs to windward of the Queen Charlotte, and away from the Wind, do you recollect the Situation

Situation of the Queen, Ruſſel, Valiant, and Royal George, whether they were in Action at that Period, and if they were between the Cæſar and the Enemy's Line?—A. I don't particularly recollect the Situation of the Ships at that Time.

Q. Were they in Action at that Time, or not?—A. Some of them were; but from the Cloud of Smoke, I could not diſtinguiſh which.

Sir Roger Curtis aſked:

Q. You have been aſked, if when the Cæſar was paſſing to windward of the Britiſh Line, ſhe then ſteering from the Wind, if any Signal was made from the Queen Charlotte to haul her Wind—is not the Signal to tack in Succeſſion, a Signal to keep the Wind on the other Tack, unleſs contradicted by ſome Signal?—A. Certainly it is.

Q. Was any Signal made by the Queen Charlotte for the Cæſar to alter Courſe from the Wind and go large?—A. No.

The Witneſs withdrew.

Captain the Hon. Thomas Stopford, of His Majeſty's Ship Phaëton, called in, and ſworn.

Sir Roger Curtis aſked:

Q. Have you the Minutes of the Signals?—A. I have.

Q. Were you Captain of the Aquilon on the 29th of May laſt?—A. I was.

Q. Was the Aquilon then with the Britiſh Fleet?—A. She was.

Q. Was the Aquilon the Repeater to the Royal George?—A. She was.

Q. Where was the Aquilon ſituated when the Fleet was on the larboard Tack, on the 29th of May?—A. At the Time of the Engagement, ſhe was in the Van of the Fleet, as the Royal George had ſhifted her Poſition.

The Paper of Signals, ſigned by Captain Barlow, was ſhewn to Captain Stopford.

Q. Is the Statement of Signals true, as far as relates to the 29th of May?—A. Yes.

Q. Upon what Tack was the Britiſh Fleet when the Signal to form the Order of Battle ahead and aſtern of the Admiral, as moſt convenient, was repeated by you, at 3 hours 40 minutes, A. M. on the 29th of May?—A. The Britiſh Fleet was on the Starboard Tack.

Q. Was the French Fleet then to windward of the Britiſh Fleet?—A. Yes, it was.

Q. Upon what Tack was the Britiſh Line when you repeated the Signal for the Fleet to tack in Succeſſion, at 12 : 20, P. M. on the ſame Day?—A. Upon the larboard Tack.

Q. Was the Enemy's Line then to windward?—A. Yes, it was.

Q. Was the Cæſar's Signal made to make more Sail, while the Fleet was on the larboard Tack, on the 29th of May?—A. Yes, it was.

Q. What

Q. What Sail did ſhe make in Conſequence of it?—A. Letting one Reef out of her Top-ſails, as far as I could judge, in the doing of which the Maintop-ſail was ſplit; and, as well as I can recollect, the Maintop-maſt Stay-ſail was ſet.

Q. How do you know the Maintop-ſail was ſplit?—A. The Signal-Officer, looking at her with a Glaſs, informed me it was ſo.

Q. Was the Cæſar's Signal to make more ſail made more than once on that Occaſion?—A. By the Minutes it was made at 35 Minutes paſt Seven, and at 20 Minutes paſt 8.

Q. Was it in Conſequence of the firſt or ſecond Signal that the Sail was ſplit, by letting out a Reef of the Maintop-ſail?—A. As well as I can recollect, at this Diſtance of Time, at the Time the Signal was made the ſecond Time.

Q. Then what Sail was made on the Cæſar, in Conſequence of the firſt Signal?—A. As well as I can recollect, I think the Cæſar hauled aft her Fore-ſheet, which was before put; further I do not recollect.

Q. Did you obſerve what Reefs the Cæſar had in her Top-ſails, when her Signal was made to make more Sail?—A. I do not recollect.

Q. Did the Cæſar unbend her Maintop-ſail, ſoon after the laſt Signal was made, to make more Sail?—A. Soon after it was diſcovered to be ſplit.

Q. While the Cæſar was unbending the Maintop-ſail, and bending another, did you obſerve her to ſet any Sail to ſupply the Deficiency of the Maintop-ſail?—A. I mentioned that; I think the Maintop-maſt Stay-ſail was ſet, and I think it was at that Time.

Q. Did ſhe ſet her Main-ſail, or let any Reef out of the Fore or Mizentop-ſail, or ſet her Jib?—A. I do not recollect.

Q. Did you ſee the Cæſar wear from the larboard Tack, in Conſequence of the Signal to tack in Succeſſion the laſt Time?—A. Yes; I did.

Q. Did you ſee her haul to the Wind, on the Starboard Tack, after wearing?—A. My Obſervations upon the Cæſar was, as far as I can recollect, that the Cæſar did come to the Wind, but whether cloſe or not I cannot pretend to ſay.

Q. Did ſhe ſet her Main-ſail?—A. To the beſt of my Knowledge ſhe did.

Q. Did ſhe haul her Main-ſail up, and bear away to leeward of the Britiſh Line?—A. To the beſt of my Recollection ſhe did.

Q. Did you ſee the Cæſar paſs through the Britiſh Line to get to windward of it, after having ſo bore away?—A. I did not; I ſtood away to the Rear of the Fleet in the Aquilon.

Q. How many Ships of the Britiſh Line did you ſee the Cæſar paſs to leeward of?—A. At the Time I ceaſed to make any Obſervation on the Cæſar, to the beſt of my Recollection, ſhe was then abreaſt of the third or fourth Ship of the Britiſh Line.

Q. As you were to leeward of the Britiſh Line, did you notice the Diſtance of the different Ships of the Van from each other?—A. The headmoſt Ships ſeemed to be in cloſe Order.

Q. Were they more open towards the Centre?—A. As I ſtood along

along the Line afterwards, I thought they appeared more crowded in the Rear and Centre, than in the Van.

Q. From your Obſervations of the general Diſtance of the Van Ships from each other, did you ſee any Impediment to the Cæſar going through the Line before the Van, three or four Ships to leeward of the Britiſh Line, as you have deſcribed, had ſhe been kept to the Wind, after you firſt obſerved her to be hauled to it?—A. I could not judge accurately of thoſe Ships, as the Smoke ſometimes deprived me of the Sight of them.

Q. Did you ſee the Cæſar after ſhe got to windward of the Britiſh Line?—A. I did not; I ſtood away towards the Queen that was very much diſabled.

Q. Did you ſee the Cæſar's Fore ſail blow up on the Yard, from the Time you ſaw her wear, till you loſt Sight of her?—A. I do not recollect that Circumſtance.

Q. From the Time the Cæſar wore, till you loſt Sight of her, did you ſee her Fore-ſail in any Diſorder, indicating any Accident to the Tack and Bumpkin Block?—A. I do not recollect any ſuch Indication.

Q. How far were you to leeward of the Cæſar when ſhe wore?—A. As near as I can recollect, I was very near two Miles to leeward.

Q. Did you ſee any Impediment in the apparent State of the Cæſar, conſidering Wind and Weather, that could impede her from making more Sail, had it been neceſſary, or keeping to the Wind when firſt ſhe hauled upon it after wearing?—A. The Signal-Officer, looking at the Cæſar, told me that her Main-ſtay was ſhot away.

Q. Was that the only Impediment noticed by you?—A. It was the only one obſerved at that Time.

Q. Was the Spring-ſtay ſhot away alſo?—A. I do not recollect that it was.

Q. Be pleaſed to relate to the Court any other Circumſtances you know reſpecting the Conduct of the Cæſar on the 29th of May?—A. In my Anſwer to the Queſtions, I have related what I know reſpecting the Cæſar, my Attention being chiefly taken up with the Royal George.

Captain Molloy aſked:

Q. When you ſay the Cæſar paſſed to leeward of the Britiſh Line, do you mean to have it underſtood that ſhe paſſed to leeward of the Queen Charlotte, and the Ships aſtern of her, or only to leeward of that part of the Van which was then engaged on the larboard Tack, and between them and the Queen Charlotte?—A. I have already mentioned that my Obſervation went only to my ſeeing her abreaſt, the third or fourth Ship.

Q. It appears by one Anſwer, that the Cæſar run to leeward of the whole Fleet; how many Ships of the Britiſh Fleet did ſhe run to leeward of?—A. At the Time I took Notice of her, ſhe had not Time to run to leeward of more than three or four Ships.

Q. Were thoſe three or four Ships, at that preciſe Time, engaging the Enemy on the larboard Tack?—A. I don't recollect that they

were, at the Time that I ſaw her to leeward of the Ships upon the larboard Tack, thoſe Ships were then firing.

Q. Did you obſerve the Cæſar go to windward of the Queen Charlotte?—A. I did not.

Lieut. John Wheatly, late Firſt Lieutenant of the Cæſar, called in, and ſworn.

Sir Roger Curtis aſked:

Q. Were you Firſt Lieutenant of the Cæſar at the Time of the Action the 29th of May?—A. I was.

Q. Where were you quartered on that Day?—A. On the Quarter-Deck.

Q. Was the Cæſar's Signal to make more Sail made that Day, while ſhe was leading the Fleet on the larboard Tack?—A. I heard the Signal for the Van to make more Sail was made, I could not ſee it, but not the Cæſar in particular.

The Court aſked:

Q. At what Time did you hear the Gun?—A. I do not recollect hearing the Gun; being on the Quarter-Deck, I could not ſee the Signals made aſtern.

Sir Roger Curtis aſked:

Q. Do you know that the Cæſar's Signal was made to make more Sail at that Time?—A. No, I do not.

Q. What Sail had the Cæſar ſet when the Reef was let out of the Maintop-ſail?—A. We had double reefed Top ſails, the Fore-ſail, the Mizen Stay ſail and Mizen, the Foretop-maſt Stay-ſail.

Q. Do you mean to ſay that you had double-reefed Top-ſails before the Reef was let out?—A. Yes.

Sir Roger Curtis deſired Part of the Report of Captain Molloy to be read, to which the latter objecting, the Court was cleared, and agreed, that it ſhould be read.

The Court was again opened, and the Part of the Report pointed out by Sir Roger Curtis was read.

Q. Did the Maintop-ſail ſplit in letting out a Reef?—A. Yes.

Q. Were any Reefs let out of the Fore or Mizentop-ſail, or any additional Sail ſet to ſupply the Deficiency of the Maintop-ſail that was ſplit?—A. To the beſt of my Recollection we ſet the Main ſail; it is ſo long ago, and not expecting to be called upon to ſpeak to it, I cannot well recollect.

Q. Deſcribe the Nature of the Split in the Maintop ſail?—A. The Sail was ſplit from the Reef Tackle Cringle athwart, and a conſiderable Way down the Leech towards the Clue.

Q. How much athwart in Meaſure, to the beſt of your Opinion?—A. It might be about half way to the Midſhips, or not quite ſo much.

Q. How

Q. How far was ſhe ſplit downwards?—A. Near down to the Clue.

Q. Were you then of Opinion it was abſolutely neceſſary to unbend the Sail, in Conſequence of that Split, conſidering the Situation of the two Fleets at that Time?—A. Yes, I do.

Q. When the new Maintop-ſail was bent, what Reefs were taken in?—A. I am not certain whether it was one or two; but I think it was one.

Q. After the Cæſar were for coming to the Wind on the ſtarboard Tack, what Sail did ſhe ſet for clawing to windward to approach the Enemy, and did ſhe ſet her Mainſail?—A. We had the ſame Sail ſet as when on the Larbord Tack, except the Mainſail; the Foretop-maſt Stayſail might be up or down; I can't be certain how it was.

Q. Did the Cæſar ſet her Mainſail after wearing?—A. No, ſhe did not.

Q. Did ſhe ſet her Jib?—A. I am not poſitive whether it was or not.

Q. Did ſhe haul her Mizen out, or haul aft her Mizen Stayſail Sheet?—A. The Mizen Stay and Mizen Stayſail Stay were ſhot away; I think the Mizen Sheet was hauled aft, but am not certain.

Q. Was the Weather ſuch as to render it dangerous or improper to haul the Maintack aboard, for clawing to windward, at the Time the Cæſar wore?—A. It was not the Weather, but the diſabled State of the Ship, that prevented our getting the Maintack on board; the Sheet and Tack were ſhot away, and the Main-ſtay in two Places.

Q. When you hauled round towards the ſtarboard Tack, was it then the ſtarboard or Weather Tack, or the larboard or leeward Tack, that was ſhot away?—A. The ſtarboard.

Q. Upon the Cæſar's wearing was ſhe immediately brought to the Wind?—A. No; we were obliged to paſs to leeward of ſome of the Van Ships, before we could get through our own Line to haul upon a Wind?

Q. What was the next Ship aſtern of the Cæſar?—A. The Queen.

Q. Did you ſee the Queen wear?—A. No, I did not.

Q. Did you ſee her after ſhe had worn?—A. Yes, I did.

Q. What was her Situation when you ſaw her?—A. She was hauling her Wind towards the Enemy.

Q. Was ſhe then to windward of the Britiſh Line?—A. Yes, I think ſhe was.

Q. If ſhe was then to windward of the Britiſh Line when you ſaw her, muſt ſhe have not gone through it at ſome Place the Cæſar had paſſed?—A. I do not know; ſhe was at ſo great a Diſtance from us, and the Smoke ſo very thick, that I cannot aſcertain that.

Q. Being to windward of the Britiſh Line, muſt ſhe not have gone through ſome of the Ships of it, before ſhe could have been where ſhe was?—A. No Doubt.

Q. Muſt ſhe not then have gone through ſome Ships which the Cæſar paſſed?—A. I don't know; but ſhe might have come the ſame Tack that we did.

Q. What was the Situation of the Cæſar in Reſpect to the Queen

Charlotte, or any other Ship of the Line, to mark her Situation, when you firſt ſaw the Queen?—A. Immediately we had found an Opening in our own Line, Captain Molloy ordered the Maſter to keep the Ship cloſe to the Wind, and repeatedly told him ſhe was not cloſe to it. The Maſter obſerved that the Fore-ſail was lifting, and he could not keep her any nearer the Fore-yard, the larboard-ſide being cut almoſt aſunder, we could not haul in the Brace, or haul aft the Sheet, without endangering the Loſs of the Fore-yard, but braced it up as well as we could with a Preventer Brace; we were between our own Fleet and the French; our own Fleet was a long way to leeward of us; the Queen was a little upon our Weather Quarter.

Q. How far diſtant upon your Weather Quarter, to the beſt of your Judgment?—A. She might be a Mile and a Half, or better.

Q. Was it ſoon after you got through the Britiſh Line that you then ſaw the Queen?—A. It was ſome conſiderable Time after we had paſſed, when I ſaw her firſt.

Q. You ſay the Cæſar was ordered to be kept to the Wind, as ſoon as you found an Opening to go through the Britiſh Line? Could the Queen then have been a Mile and a Half or more upon your Weather Quarter, unleſs ſhe had gone through the Britiſh Line, nearer to the Van of it than you did?—A. Yes; as the Cæſar was in that diſabled State, that ſhe could not keep cloſe to the Wind, and the Queen wearing ſome conſiderable Time after us, might have been in that Situation, and paſſed through the Line where we did, though I don't know where ſhe went through.

Q. How do you know that the Queen wore a conſiderable Time after you?—A. I heard ſomebody mention it from the Poop, that ſhe was wearing; I did not ſee her.

Q. Under the Stern of which Ship did the Cæſar paſs the Britiſh Line?—A. I think we paſſed Eight Ships; it was under the Stern of the eighth, but what Ship it was I don't know.

Q. Were the Foretack and Bumpkin-block of the Cæſar ſhot away on the Twenty-ninth of May?—A. They were.

The Court aſked,

Q. Was ſhe then on the larboard Tack?—A. No, on the ſtarboard tack.

Sir Roger Curtis aſked,

Q. Did the Fore-ſail blow upon the Yard, in Conſequence of thoſe Parts of the Rigging being cut?—A. The Sail blew up againſt the Stay, as naturally would be ſuppoſed, the Jack-block and Sheet being ſhot away.

Q. At the Time theſe Accidents happened, what was the Situation of the Cæſar reſpecting the Queen Charlotte, or any other Ship of the Britiſh Line?—A. At that Time, Part of our Fleet was a conſiderable Diſtance to leeward of us; I think it was after we paſſed the Queen Charlotte, for I remember making a Remark to Captain Molloy reſpecting her.

Q. When the Fore Tack was ſpliced, and the Bumpkin-block replaced, what was the Situation of the Cæſar with reſpect to the Queen Charlotte,

Charlotte, or any other Ship of the Line?—A. It was not finiſhed till we paſſed the Rear of the Enemy.

Q. Was the Spring-ſtay ſhot away at the Time the Main-ſtay was ſhot away?—A. Three Strands of it.

Q. What was done for the Security of the Maſt, and when?—A. We got a couple of dead Eyes, with Tails fixed for the Purpoſe, and Lanyards, with that we ſecured the Spring-ſtay; we got the Meſſenger up as ſoon as poſſible, and replaced the Main-ſtay with that; the getting the Meſſenger up was while we were in Action with the Rear, but did not get it ſecure till after we ceaſed firing.

The Court aſked,

Q. After you got through the Britiſh Line, as you have deſcribed, did you keep conſtantly by the Wind till you had paſſed the Rear of the Enemy's Line?—A. I think we did, as near as the diſabled State of the Ship would permit.

Q. It appears that the Signal was made for tacking in Succeſſion, and that you wore; what were the Difficulties the Ship was under, to prevent you anſwering that Signal?—A. The Signal was anſwered; the Main-ſtay being gone, and three Strands of the Spring-ſtay, the Maintopmaſt-ſtay likewiſe wounded; had we attempted to tack, I think there is no Doubt but the Maſt would have gone over the Stern; when we came to haul the Main-ſail, as there was a heavy head Sea, and the Mizen Stay-ſail Stay being ſhot away, the Mizen-maſt would have been in Danger likewiſe.

Q. Were there any Orders for letting out the Reef of the fore and mizen Topſails, or was there any Impediment to render it improper?—A. As my Attention was particularly paid to the Maintop-ſail, I don't recollect whether the Foretop-ſail had a Reef let out of it or not, but the Mizentop-ſail had not; there was no Impediment for letting out the Reef of the Mizentop-ſail, that I know of.

Q. After you were on the ſtarboard Tack, and paſſed through the Engliſh Line, do you think every Effort was made conſiſtent with the diſabled State of the Cæſar, to cut through the Enemy's Line, which ſeems to have been the Wiſh of the Commander in Chief for you to have done?—A. Yes, I do.

Q. After the Cæſar had paſſed the Queen Charlotte, from your Obſervations did you think the Cæſar was hauled more to the Wind to fetch the Enemy's Fleet ſo as to commence firing again, your Fire having ceaſed?—A. She was hauled upon a Wind after paſſing the Line, and continued ſo, conſiſtent with the diſabled State of the Ship; the Captain often called to the Maſter to keep her cloſe to the Wind, and he often anſwered ſhe was cloſe to the Wind.

Captain Mollóy aſked,

Q. Did I give Orders to let a Reef out of the Maintop-ſail?—A. Yes.

Q. In letting out that Reef, was the Sail very much ſplit?—A. It was.

Q. Upon it being ſo much ſplit, did I make any Obſervations to you at the Time?—A. You did.

Q. Relate

Q. Relate them to the Court.—A. You obſerved to me it was a very unfortunate Circumſtance to happen at that particular Time; I anſwered I had not a Doubt but we ſhould get another Sail to the Yard before the Enemy would be up with us, which we did.

Q. Was not the Sail-maker's Mate ſent into the Main-top, to ſee if there was a Poſſibility of repairing it, without unbending it?—A. Yes.

Q. What Report did he give?—A. He reported the Sail ſplit ſo bad, that it could not be mended without being unbent.

Q. Upon that Report was every Exertion made to get a new Main-top-ſail to the Yard, and the beſt Men in the Ships ſent up, the Captains of Guns and Quarter-maſters, for the more ſpeedy effecting that Duty with all proper Diſpatch?—A. Every Exertion was made.

Q. Since you have been at Sea, did you ever ſee a Sail brought to the Yard quicker, and ſet?—A. The Men were very briſk, and the Sail brought to the Yard very quick; I do not recollect ſeeing one brought to the Yard quicker.

Q. Was it ſet for a conſiderable Time before the Van Ship of the Enemy began to engage us?—A. Yes.

Q. During the whole Time the Topſail was bending, did the Cæſar keep her exact Station in the Line?—A. I believe ſhe did; I did not hear that the Queen was obliged to ſhorten any Sail for us.

Q. When the Signal was made to tack, was every Preparation made to carry that Signal into Effect, and were the Men broke off from their Guns to execute that Duty?—A. The Men were broke off from their Guns, and the Ropes ſtretched along ready to tack the Ship, and every Thing was ready for that Purpoſe, when I heard them ſay that the Signal for tacking was annulled.

Q. When the Signal was made a ſecond Time was every Thing ready; were the ſame Preparations made?—A. Yes.

Q. Did you and the Maſter come to me, and make any Obſervations on the Impropriety of my tacking the Ship?—A. I did; I told the Captain that I thought if we attempted to tack, it was my Opinion we ſhould loſe the Mainmaſt.

Q. Would the Foreyard, in its diſabled State, have bore hauling in upon the Weather Brace?—A. No; I do not think it would.

Q. Did I make any Obſervations to you when you adviſed me to wear the Ship, inſtead of tacking, of the Sacredneſs of Signals at all Times, but more particularly ſo in Action?—A. You did.

Q. What were they?—A. That Signals were ſacred Things, and ſhould ever be attended to, and more particularly ſo in Action.

Q. Did you hear me order the Signal Quarter Maſters on the Poop, to hoiſt the Tacking Signal, and Inability one with it?—A. Yes, I did; they were hoiſted prior to the Cæſar's wearing.

Q. Was the fire of the Van Ship of the Enemy, nearly, if not completely, ſilenced?—A. She was nearly ſilenced, as ſhe fired very few Guns for the laſt Quarter of an Hour.

Q. Did I lament that Signal for tacking being made ſo ſoon, as I was fully perſuaded that Ship muſt have fallen ſoon?—A. Yes.

Q. Was it made only by me?—A. I mentioned it myſelf, that I was

was of the ſame Opinion, and I believe Major Driffield, though I am not certain.

Q. Was the Cæſar wore, immediately upon the Signal of Inability to tack being made to the Admiral?—A. Yes.

Q. Who wore the Ship?—A. Yourſelf.

Q. Did it appear to you ſhe was wore in an Officer-like and Seaman-like Manner, and that ſhe was wore quickly?—A. She was wore very properly.

Q. Before the Cæſar wore on that Day, did ſhe engage as near to the Enemy as ſhe could poſſibly get?—A. Yes; ſhe was cloſe upon a Wind the whole Time.

Q. After the Cæſar had wore, were Orders given by me to the Maſter to keep the Ship as cloſe as ſhe would lie, and endeavour to get through the firſt Opening that we ſaw in the Britiſh Van?—A. Orders were given to the Maſter to ſteer the Ship through the firſt Opening in the Britiſh Line.

Q. Was an Attempt made by the Cæſar to paſs through the Orion and Invincible, as we ſuppoſed them to be?—A. There was an Attempt made once, before we ſucceeded, but the Ships I don't know.

Q. How long was the Cæſar engaged with the Van Ship of the Enemy prior to her wearing?—A. I cannot aſcertain the Time, as I had no Watch; I ſuppoſe we might be an Hour and a Half; I am not certain.

Q. What Damages had we ſuſtained in that Action, in Maſts, Sails, Yards, and Guns, and in every other Reſpect, before ſhe wore?—A. The principal Damage was the Fore-yard, the Main-ſtay; ſeveral of our Shrouds were cut away, and a great Deal of the running Rigging; two of the 24 Pounders ſplit by the Enemy's Shot; other Matters that I cannot recollect.

Q. After we had worn and come to on the ſtarboard Tack, was a Report made to me that the Ship was making Water very faſt, and that there was a great Deal in her?—A. Yes; Mr. Bennett, the third Lieutenant, came up, and informed you that the Ship had a great Deal of Water in her, and was gaining on her Pumps.

Q. Did you hear me ſay any thing to Lieutenant Bennett, upon his making that Report?—A. Yes; you deſired him not to ſpeak ſo loud what he had to ſay to you; to mention it in a low Voice, as the People might not hear the State the Ship was in.

Q. After we had made an Attempt to paſs through two Ships, and failed, did we paſs to windward of the Queen Charlotte?—A. Yes, we did.

Q. Almoſt immediately after we had paſſed the Queen Charlotte, and in the leaky and diſabled State the Ship was in, did ſeveral of our Ships to leeward of the Queen Charlotte open their fire on us, miſtaking us for the Enemy?—A. We heard ſeveral Shot come from our Line, and I obſerved to Captain Molloy that our own Ships were firing at us; that I ſaw one of the Shot ſtrike forward juſt before the Fore-caſtle, and the Splinters fly.

Q. At the ſame Time did ſeveral of the Enemy's Ships to windward cloſe each other, brail up their After-ſails, and bear right down

on

on the Cæſar?—A. There were Seven or Eight in that Situation which you pointed out to me at the Time.

Q. Did they fire at us?—A. Certainly.

Q. Did I at that Time obſerve to you, being between two Fires, that I had ſeen this happen before, Colours being miſtaken; and order the People to lay down fore and aft, to prevent our being cut up between two fires?—A. You gave Directions that the Men, except thoſe at the Pumps, ſhould ſecure themſelves till the Smoke cleared away, that our Ships to leeward might ſee our Colours.

Q. When you ſaid that the Queen was a Mile and a Half upon the Weather Quarter of the Cæſar, did you mean that that Diſtance was to windward, or from the Cæſar only?—A. From the Cæſar.

Q. Suppoſing that the Queen could have been drawn forwards that Diſtance, how far would ſhe then have been to windward of the Cæſar?—A. A very little Diſtance.

Q. After the People had got up from laying down at their Guns, and renewed their Fire, was it at that, or what Time the Bumpkin Block was ſhot away?—A. It was ſome little Time after that.

Q. Did the Cæſar, when ſhe renewed her fire, engage cloſe with any of the rear Ships of the Enemy?—A. Yes, with Three; and we backed our Mizen-top-ſail at the Time we were paſſing thoſe Ships.

Q. In the very Height of the Action, and quickeſt of the Fire, were not Hands broke off from the Guns, by my Orders, to go down below, and bring up the working Meſſenger, with a View to ſecure the Main-maſt as quick as poſſible?—A. Yes.

Q. After we had paſſed the Rear Ships of the Enemy's Line, was every Exertion made or not by me to get the Cæſar into immediate Readineſs to renew the Action, and what was my Conduct upon that Occaſion.—A. It is impoſſible greater Exertions could be made to get the Ship in Readineſs to renew the Action; Captain Molloy was at every Part of the Ship, to ſee that different Matters were put to Rights; he was not off the Deck.

Q. Do you by the ſolemn Oath you have taken in this Court, think that I could poſſibly have paſſed his Majeſty's Ship Cæſar, intruſted to my Command, through any Part of the Enemy's Line on the 29th of May, ſituated as ſhe was?—A. No.

Q. After paſſing the Queen Charlotte, and ſeeing thoſe Ships coming down upon us, did I make any Obſervation to you of my Wiſhes to get through that Line?—A. Yes, you obſerved that if we could get through the Line, we ſhould only be beat by two or three Ships, but as we could not, we ſhould have the Fire of 16 or 17 of them.

Q. Had we the Fire of 16 or 17 of them?—A. I cannot tell how many.

4 o'Clock P. M. The Court adjourned till 9 o'Clock to Morrow Morning.

Wedneſday Morning, 9 o'Clock, A. M.

The Court met according to Adjournment.

Lieutenant Wheatly called in again.

Captain Molloy aſked,

Q. After the Cæſar had paſſed the Rear of the Enemy, do you remember

member the Signal for a general Chaſe being made by the Commander in Chief?—A. Yes.

Q. Was it obſerved by the whole of the Britiſh Fleet, or did any, and which of the Ships make the Signal of Inability?—A. I don't know which of the Ships obſerved it.

Q. Did any of the Ships make the Signal of Inability?—A. Yes, I ſaw the Queen, and ſome other Ships which I don't recollect.

Q. Do you remember the diſmaſted Ship of the Enemy to leeward, and what you ſaid to me reſpecting her?—A. I recollect one of the Enemy's Ships to leeward, diſabled, and I propoſed to Captain Molloy to edge down to her.

Q. What was my Anſwer?—No, there are Ships enough aſtern to take her, or Words to that Purport; we muſt make what Sail we can towards the Admiral.

Q. Did we make what Sail we could towards the Admiral?—A. Yes.

Q. Was the Cæſar wore?—A. She was, on the larboard Tack.

Q. When the Commander in Chief made the Signal in the Evening for the Cæſar, and ſome other Ships to come into his Wake, could we get into the Wake of the Queen Charlotte from the Cluſter of Ships cloſe round her?—A. Not immediately.

Q. Did I hail any Ship to get out of the Way, to let me get into his Wake?—A. Yes, I think it was the Tremendous.

Q. Did I hail the Ship myſelf?—A. Yes, you hailed yourſelf.

Q. Did I hail any Ship to requeſt they would be ſo good as to go and acquaint the Commander in Chief of the leaky and diſabled State the Cæſar was in?—A. Yes, the Valiant.

Q. What did I ſay to her?—A. I do not recollect the Words exactly.

Q. I ſtand here an accuſed Man of not having done my utmoſt to defeat the Enemy on the 29th, which muſt proceed either from Cowardice, Negligence, or Diſaffection; as firſt Lieutenant of the Cæſar, and Day Officer, have you not conſtantly lived with me at my Table? Did you ever, at any one Time, hear me ſpeak with Diſaffection of my Sovereign, the Country, or the Government of that Country?—A. I did live with Captain Molloy at his Table. So far from hearing any thing like Diſaffection, it was ever quite to the contrary.

Q. Did you ever know me at any one Time, but more particularly in Action, neglect any Part of that Duty, which it was incumbent on me, as the Captain of a Britiſh Man of War, to ſhew?—A. I never knew you to neglect any Part of your Duty, but was ever anxious to have your Ship in the beſt poſſible Order.

Q. Were you ever in Action before?—Yes.

Sir Roger Curtis aſked,

Q. What Tack was the Queen Charlotte upon when ſhe made the Signal for a general Chaſe?—A. I think ſhe was on the larboard Tack.

Q. Was that the Tack the Enemy's Line was upon?—A. The Rear of the Enemy was on that Tack, I cannot ſay any Thing of the Van.

Q. Do you know the Queen Charlotte went through the Enemy's Line?—A. I did not ſee her go through the Enemy's Line, but, from

her Situation, I think ſhe muſt have paſſed through Part of the Enemy's Line.

The Court aſked,

Q. When the Cæſar had wore, as you have mentioned, did ſhe point to windward of the Enemy's Ships in the Rear that you had paſſed and engaged?—A. She did.

Q. Did you ſee the Queen Charlotte to windward of the Enemy's Line?—A. I did.

Sir Roger Curtis aſked,

Q. Did the Cæſar paſs to windward of either of the ſternmoſt Ships of the Enemy?—A. I don't recollect ſhe paſſed any of the Ships of the Rear, except that one that was diſabled when on the larboard Tack.

Q. When the Cæſar paſſed the Rear of the Enemy, ſhe being on the ſtarboard Tack, did ſhe paſs to windward of either of the Rear Ships of the Enemy diſabled or not diſabled?—A. No.

Q. You have ſtated that the ſtarboard Main Sheet and Tack were ſhot at the Time you wore to come upon the Wind on the ſtarboard Tack, which prevented your ſetting your Main-ſail—was there not Time enough while you were running to leeward of the eight Van Ships of the Britiſh Fleet, and then out of all Annoyance from the Enemy, to have ſpliced, or have got up a Subſtitute for the Main Tack, ſo that you might have ſet your Main ſail when you did paſs through the Britiſh Line?—A. Our Attention was more particularly paid to getting the Main-maſt ſecured than the Idea of ſetting the Main-ſail; by ſetting the Main-ſail, or too much Sail on the Main-maſt certainly would have endangered its going over the Side.

Q. Were not your Deſires to ſecure the Main-maſt as much with a View to ſet Sail upon the Maſt, if neceſſary, as for the Preſervation of the Maſt?—A. Certainly.

Q. Was the Mizen Stay-ſail-ſtay ſpliced while you were running to leeward?—It was not, the Mizen-ſtay was ſecured.

Q. Was there not Time to have ſpliced the Stay-ſail-ſtay alſo?—A. The Stay-ſail-ſtay would not have required any great Time to have done it; there certainly was Time to have done it.

Q. Might not Hands have been applied to prepare a Subſtitute for the Main-tack at the ſame Time that others were ſecuring the Stay?—A. Every Opportunity was taken to replace what Damages we had received, and a great Deal was ſecured while in Action.

Q. Was the Main-tack ſpliced, or a Subſtitute for it got up while you were paſſing along as you have deſcribed?—No.

Q. As from the Signal to tack in ſucceſſion, it was known the Cæſar was to keep her Wind, do you know why the Main-tack was not repaired, and the Mizen Stay-ſail ready for ſetting, that ſhe might have been able to keep to the Wind after ſhe got through the Britiſh Line?—A. The Men were employed in ſecuring the different Ropes and Rigging that were ſhot away, particularly the ſtanding Rigging, and every Attention appeared to me to be paid to get the Ship in as good Order as poſſible.

Q. As the Main-ſail and three other after Sails were ſo eſſential for clawing to windward, do you know why they were not particularly attended to?—A. No.

Q. You

Q. You have ſaid that you believe the Cæſar paſſed the Britiſh Line under the Stern of the eighth Ship; what Length of Time do you apprehend you were in paſſing to leeward of theſe Ships, before you hauled through the Britiſh Line?—A. I cannot aſcertain in the particular Time, but we could not be long in paſſing eight Ships on different Tacks in cloſe Order.

Q. Was there Time ſufficient to have ſpliced a Main-tack and a Mizen Stay-ſail-ſtay?—A. It might have been done.

Q. What Length of Time from your having got through the Britiſh Line in the paſſing to windward of the Queen Charlotte, before you got the Length of the Rear of the Enemy?—A. I don't know, I had no Watch about me, and did not take Notice of Time.

Q. You have ſtated that a Report was made to your Captain that the Ship made Water; when was that Report made?—A. While we were paſſing the Enemy's Line, after paſſing through the Britiſh Line.

Q. You have ſtated that Guns were ſplit; did the Ship making Water, and having Guns ſplit, prevent her from being kept to the Wind?—A. No.

Q. Did the Ships making Water, and having Guns ſplit, render her incapable of going into cloſe Action?—A. Not totally incapable.

Q. You have ſaid that when the Cæſar was paſſing between the Enemy's Line and our's, that Eight Sail of the Enemy's Ships were cloſing each other, and edging down towards the Cæſar; at the Time you obſerved this, were there any Britiſh Ships to windward of you, and conſequently nearer the Enemy's Line than you?—A. I obſerved before, that being the headmoſt Ship, I could not from the Quarter-deck ſee the Situation of the Ships aſtern.

Q. Did you ſee any Ship upon your Weather Quarter?—A. Some Time before this, I ſaw the Queen upon the Weather Quarter, but not at that Time.

Q. You have ſaid that the Cæſar's Fore-yard was wounded; whereabouts was the Wound, and at which Yard-arm?—A. It was the larboard Yard-arm towards the Quarter.

Q. How far do you think it was from the Sheet-block?—A. I can't exactly ſay, I ſuppoſe about 14 or 15 Feet.

Q. Did you ſee the Wound yourſelf?—A. I did.

Q. What was the Nature of it?—A. It was the under Part of the Yard, and it appeared ſo bad to me from the Quarter Deck, that I was very much afraid we ſhould have loſt it.

Q. Was any Thing done for the Security of the Yard on the 29th of May?—A. Yes, after the Ship came out of Action, it was ſecured with Capſtain Bars.

Q. You have ſaid that the Cæſar, after paſſing through the Britiſh Line, was kept as near the Wind as you could, conſidering your diſabled State; how much from the Wind did ſhe keep?—A. I obſerved before that the Maſter obſerved the Fore-ſail was lifting.

Q. How many Points?—A. I cannot ſay.

Q. Was the Fore-yard braced up?—A. No, not ſo much as if it had been perfect.

Q. What was the Obſtruction to bracing up the Fore-yard?—A. We were afraid of carrying it away.

Q. Did the Preventer Braces, that of the Fore-yard, lean forward or aft?—A. Forward.

Q. Then could not the Fore-yard of the Cæſar have been braced up with the Starboard Preventer Brace, without endangering the larboard Part of the Yard where it was wounded?—A. Yes, and it was braced up, as much as we could get.

Q. Though the Main-tack of the Cæſar was not replaced when you got through the Britiſh Line, would not the hauling aft the Main-ſheet have aſſiſted in keeping the Ship to windward?—A. No, I don't think it would.

Q. You have ſaid upon the ſolemn Oath that you have taken, that you believe it was not poſſible for the Cæſar to puſh through the Enemy's Line; I aſk you, upon the ſame ſolemn Oath, do you think it was poſſible for the Cæſar to have got nearer the Enemy's Line than ſhe did?—A. I have already ſaid that the Cæſar kept as near to the Wind as her diſabled State would admit of.

The Court aſked,

Q. Was the Main-tack got in a Poſition to make ſail, by the Main-ſail, as ſoon as the Main-maſt was in a Condition to bear that Sail?—A. Yes.

Captain Molloy aſked,

Q. Admitting the Main-tack had been ſpliced, and the Sail in the moſt perfect Condition for ſetting, could I, in the Situation the Maſt was then as you have deſcribed it, have ſet the Sail?—A. I don't think you could without endangering the Maſt.

Mr. John Lucky, Maſter of the Cæſar, called in and ſworn.

Sir Roger Curtis aſked,

Q. Were you Maſter of the Cæſar on the 29th of May?—A. Yes.

Q. Were you quartered on the Quarter Deck?—A. Yes.

Q. Was the Cæſar's Signal made to make more Sail?—A. I ſaw no Signals made at all.

Q. Do you remember the Cæſar's letting a Reef out of the Main-top-ſail?—A. Yes.

Q. How many Reefs had ſhe in her Top-ſail before that Reef was let out?—A. Three; it was the third Reef that was let out; the Sail has four Reefs.

Q. Did the Top-ſail ſplit when letting out the third Reef, and was it unbent in Conſequence?—A. Yes.

Q. Were any Reefs let out of the Fore and Mizen Top-ſails, or any additional Sail ſet to ſupply the Deficiency of the Sail ſplit?—A. The Main-ſail was ſet, the Main-top-maſt Stay-ſail, and the Main Stay-ſail, the Reefs I don't recollect whether they were let out or not.

Q. When the new Main Top ſail was bent, what Reefs were taken in it?—A. The firſt and ſecond.

Q. Was the Main-ſail then hauled up, after the Sail was ſet?—A. I do not recollect whether it was or not immediately.

Q. After the Cæſar wore for coming to the Wind on the ſtarboard Tack, what Sail did ſhe ſet, and did ſhe ſet her Main-ſail?—A. We made no more Sail.

Q. Do you recollect the Sail you had then out, the whole of it after you

you wore?—A. Three Top-ſails, and the Fore-ſail, whether the Jib and Foretop-maſt Stay-ſail were ſet I cannot ſay.

Q. Were there then two Reefs in the Maintop-ſail and three in the Fore and Mizen?—A. There were two in the Main, but the State of the others I did not obſerve; before the Action we had three Reefs in all the Topſails.

Q. Do you know under the Stern of which Ship of the Britiſh Line the Cæſar paſſed through?—A. I did not know her Name at the Moment, but was informed it was the Majeſtic.

Q. Do you know the Number of the Majeſtic from the Van?—A. The 7th or 8th Ship, I am not certain, I did not count them in going down.

Q. Do you think it was impracticable for the Cæſar to have paſſed through the Britiſh Line before ſhe ran to leeward of it, ſo far as the Majeſtic?—A. I do not think ſhe could have got through.

Q. What were the Impediments?—A. We could not brace the Yards up, the Fore Yard particularly.

Q. Was the Fore Yard more braced up when you did go through the Britiſh Line under the Stern of the Majeſtic, than it was in paſſing the other Ships?—A. No, I do not think it was at that Time.

Q. How then did the want of bracing up the Yard prevent you paſſing through the Line?—A. We continued our Courſe till after we paſſed the Line; we did not alter half a Point.

Q. Did you attempt to go through the Line before you reached the Majeſtic?—A. We could not fetch near any of the Ships far enough to windward.

Q. By what Accident did the Cæſar come ſo far to leeward wearing from the Head of the Line, that ſhe could only fetch the eighth Ship?—A. She was a long Time in wearing, and ſome Time before ſhe came to the Wind on the other Tack.

Q. What were the Impediments in wearing that cauſed you to be long about it, and run ſo far to leeward?—A. I cannot ſay immediately what were the Impediments, the Ship at that Time did not anſwer her Helm as quick as ſhe does in general.

Q. Was the Ship obſerved to anſwer her Helm worſe than uſual on the Morning of that Day, before you attempted to wear?—A. Not before we came into Action.

Q. Do you know of any Accident that had happened to the Rudder, or Wheel, or any Thing belonging to it, after the Action had commenced?—A. I know of none.

Q. While you continued upon the ſame Courſe, not altering half a Point as you before ſaid, were you then ſteering parallel with the Engliſh Line?—A. Yes, till we got to the Majeſtic.

Q. Do you know how the Cæſar led up before ſhe wore from the larboard Tack?—A. I think, to the beſt of my Recollection, it was Weſt and by South.

Q. Having led up Weſt and by South when on the larboard Tack, how was you ſteering in paſſing the Ships at the Time you ſay you did not alter your Courſe half a Point?—A. Eaſt and by North, half North, a very little while, and then hauled up Eaſt and by North, and after paſſing the Majeſtic we led up about Eaſt.

Q. Did

Q. Did you lay up no higher than East, after paſſing the Majeſtic?—A. After we had got the Main-brace ſpliced, and the Fore-tack ſecured, to the beſt of my Recollection we lay to the Southward of Eaſt, and then our Foreſail was ſhaking.

Q. While you lay up Eaſt, how many Points were you from the Wind on the ſtarboard Tack?—A. Between ſeven and Eight; we were never cloſer to the Wind than Seven and a Half.

Q. After the Cæſar wore, was any after Sail ſet upon her to aſſiſt her in going through the Britiſh Line, before ſhe ran ſo far as the Majeſtic?—A. I don't recollect any, by reaſon the Mizen-ſtay, Firſt-ſtay, and Hallards were ſhot away, and the Mizen appeared to me to be very much cut.

Q. Was the Mizen ſo much cut that it would have been of no Uſe in keeping the Ship to windward?—A. I believe the Sheet was ſhot away, but I am not certain, but the Sail was hanging looſe.

The Court aſked:

Q. Was it hauled out?—A. Not to my Recollection.

Sir Roger Curtis aſked;

Q. Was it ordered to be hauled out?—A. I did not hear that it was.

Q. As Maſter of the Ship, and having the Conduct of her in ſteering, under the ſuperior Conduct of your Captain, did it occur to you that After-ſail was neceſſary to keep a Ship by the Wind?—A. Not at that Moment, as ſhe kept ſo cloſe as to keep the Fore-ſail touching.

Q. What was the Cauſe of the Fore-ſail touching?—A. The Fore-yard, previous to our wearing, had received a Wound about Ten Feet within the Cleets of the larboard Yard-arm, and ſo bad, that in bracing it up ſharp we ſhould have carried it away; we eaſed off the Fore-ſheet, as it ſeemed when aft to bend the Yard very much, which was done to eaſe the Wound; the Yard was braced up by the Preventer-brace as much as poſſible; the Fore-tack Block had been ſhot away, juſt at our hauling paſt the Majeſtic, Southward of Eaſt, and then our Fore-ſail was ſhaking.

Q. The Accident to the Fore-tack happening after you hauled under the Stern of the Majeſtic, was not there any Impediment to hauling the Wind before that Period?—A. No.

Q. What was the Effect on the Fore-ſail by that Accident happening?—A. The Sail immediately blew up very near above the Bow-ſprit.

Q. How long after this Accident happened before you was able to fix another Fore-tack?—A. I ſuppoſe not more than ten Minutes, or a Quarter of an Hour at moſt; it was done in a very ſhort Time, by what Means I cannot ſay.

Q. Did you happen to ſee the Queen Charlotte as you paſſed on the ſtarboard Tack, ſhe remaining on the larboard?—A. My Situation was ſuch that I could not diſcern what Ship it was that we paſſed to windward of.

Q. When you were able to ſet the Fore-ſail again, do you recollect what

what was the Situation of the Cæſar with reſpect to any other Ship o the Britiſh Line?—A. I ſaw none of the Britiſh Line; we were then about little better than Half a Mile from the French Line, about the fifth or ſixth Ship of their Van, may be more.

Q. Before you wore from the larboard Tack laying up, then Weſt and by South, did you take Notice whether the Van Ships of the Enemy were farther advanced to the Weſtward than the Cæſar was?—A. The Van Ship of the Enemy was a little ahead of us when we wore, and the Queen was then on our Quarter.

Q. The Enemy continuing on the larboard Tack, ſteering Weſt and by South, or thereabouts, and you wearing to go upon the ſtarboard Tack, and paſſing to the eighth Ship of the Britiſh Van before you hauled through the Britiſh Line, and ſteering as you have ſaid, after paſſing of it about Eaſt, and then Eaſt Southerly, do you, upon Reflection, ſuppoſe it poſſible that you could have fetched within Half a Mile of the ſixth Ship of the Enemy's Van?—A. I did not count the Number; I cannot ſay poſitively the Number; it could not have been the Fifth or Sixth; it was to the Weſtward of the Montague; becauſe we received ſome Fire from her, and from the Ships ahead of her.

Q. Do you know that the Main-ſtay of the Cæſar was ſhot away on the 29th of May, previous to her wearing?—A. Yes, I do.

Q. Whereabouts was it ſhot away; what Part of it?—A. A little below the Mouſe.

Q. Was the Spring-ſtay ſhot away previous to her wearing?—A. I heard that it was wounded; I ſaw it afterwards.

Q. Do you know that it was in Conſequence of the Spring-ſtay being wounded that the Cæſar did not ſet her Main-ſail, immediately upon wearing, in order to keep to the Wind, as the Signal to tack in Succeſſion imported?—A. I don't know that it was immediately on Account of the Spring-ſtay being wounded; but the larboard Main-ſheet was ſhot, and after paſſing the Majeſtic, the ſtarboard Main-ſheet and Tack were alſo ſhot.

Q. As the ſtarboard Main-tack was not ſhot away till after you paſſed the Majeſtic, could not a Subſtitute for the larboard Main-ſheet been got before you got the Length of the Majeſtic?—A. I don't think it could.

Q. What Length of Time do you think elapſed from the Time of your wearing, till you got the Length of the Majeſtic?—A. Nearly, or little better than Half an Hour.

Q. Does it require Half an Hour to reave a Rope to ſupply the Place of a Main-ſheet?—A. Had the Rope been at hand, I ſuppoſe ten Minutes would have done it; but being in the Fore Cock-pit, it would take nearly that Time, breaking the People off from their Guns and all.

Q. Was the Main-ſheet ſhot in more than one Place?—A. I believe not.

Q. Cannot a Splice, ſufficient for Service, be made in a Main-ſheet in leſs than Half an Hour?—A. Yes.

Q. Do you know that any Orders were given for ſetting the Main-ſail upon your wearing?—A. Not that I heard of.

The

The Court aſked:

Q. What was the Rate of Sailing of the Cæſar upon the larboard Tack, when the Point of the Compaſs was Weſt and by South?—A. Between three and four Knots; about four Knots.

Q. How near was the Queen to the Cæſar, and, as far as your Obſervation went, of the Seconds aſtern of her, to each other, as near as you can form a Judgment, juſt before you wore?—A. I did not ſee her till after we had wore, but ſhould imagine ſhe was more aſtern than two Cable's Length, or two and a Half at moſt; I did not obſerve the Diſtance of any of the others.

Q. In the Act of wearing, did you take Notice if the Queen and the Ships aſtern of her to the Majeſtic were in cloſe Order, ſailing in the Line of Battle, or if there was any Diſtance between any of thoſe Ships, more than uſual in that Circumſtance of ſailing?—A. They ſeemed to be in very good Order, from what I could ſee from my Situation.

Q. Were they in ſo cloſe Order as to make it difficult or impracticable for the Cæſar to have made her Way through the Line, inſtead of going aſtern of the Majeſtic?—A. I ſaw no Opening ſo large as the one we paſſed through.

Q. Was there a greater Interval between the Majeſtic and the Leviathan, the Ship next aſtern of her, than there was between the Majeſtic and the Ships ahead of her, ſo as to have had the ſame Opportunity of going through the Britiſh Line?—A. I did not perceive that there was any.

Q. How long was the Cæſar engaged prior to wearing?—A. About an Hour and twenty Minutes, or an Hour and a Half, I won't be poſitive.

Q. Do you think, from the Situation the Cæſar was in, that every Thing was done, that could have been done, to carry the Commander in Chief's Intention of running through the Enemy's Line into Execution?—A. I think it was, in our Situation at that Time.

Captain Molloy aſked:

Q. Do you recollect when the Order was given by me to let a Reef out of the Maintop-ſail?—A. Yes.

Q. Was the Sail ſplit?—A. Yes.

Q. Deſcribe to the Court in what Manner it was ſplit, and whether it was not neceſſary to unbend it?—A. The Sail was ſplit down the larboard Leech, nearly half way, and juſt below the Reef Band, for four or five Cloths; I think it was four, I will not be poſitive which, and, in my Opinion, it was neceſſary to unbend it.

Q. Was a new Sail brought to the Yard, as expeditiouſly as poſſible, and ſet, before the Van Ship of the Enemy began to engage us?—A. The new Sail was bent, and two Reefs taken in it, in leſs Time than ever I ſaw one in my Life; it was ſet ſome Time before the Van Ship of the Enemy engaged us.

Q. During the Time we were engaged with the Van Ship of the Enemy, did we get as cloſe to her as we could, and did you receive any Orders from me to keep the Ship as cloſe to the Wind as you could for that Purpoſe?—A. Yes; I received repeated Orders from Captain Molloy

to

to keep the Ship as close to the Wind as possible, and every Effort was made to get as close to the Enemy as possible.

Q. When the Signal was first made to tack, was every Preparation made to carry that Signal into Execution, and were the Men broke off from their Guns for that Purpose?—A. Every Preparation was made, and as expeditiously as possible.

Q. Was that Signal annulled?—A. I heard it was annulled.

Q. When the Signal was made to tack a second Time, was every Preparation then made to carry that Signal into Execution?—A. Yes.

Q. Just before I intended to tack the Ship, did you make any Observations to me of the Impropriety of tacking her, and if you did, relate them?—A. Captain Molloy came aft, and asked my Opinion about tacking; I said the Ship would not stay, there being so much Sea, and not only that, but her Main-mast and Mizen-mast would be in Danger of being carried away when the Sails came aback, and the Fore-yard being wounded, would also go, by bracing it up round, when it came about the Main-stay and Mizen stay, both being shot, and the Main-mast having some shot in it, which I thought would be best to wear; the Maintop-mast Stay was gone too.

Q. After the Ship had wore, and the Situation she was in, could we have set the Main-sail with any Propriety or Safety to that Mast?—A. No; we could not.

Q. Could we brace the Fore-yard sharp up, or haul the Fore-sheet flat aft without risking the Loss of the Fore-yard?—A. If it had been braced up, or the Sheet hauled aft, it certainly would have been carried away.

Q. Just as we were going to wear, did you hear me make any Observation to lament that Signals being made on Account of the Van Ships being beaten?—A. Yes, I heard Captain Molloy, and others, say, they were sorry that the Signal should be made at that Time, as the Ship we were then engaging had rather slacked their Fire, and that in a short Time we were all in Hopes of her striking.

Q. After the Ship had wore round on the starboard Tack, did I tell you to push her through the first fair Opening in the Van Division of the British Fleet?—A. Yes.

Q. Did we make an Attempt to get through two Ships, which appeared to be the Orion and Invincible?—A. We made one small Attempt, and found it impracticable.

Q. Did you say to me, if we do not put the Helm a-starboard we shall be on board the Orion?—A. I did.

Q. How near did we pass to leeward and astern of the eighth Ship, which we took to be the Majestic?—A. A little more than Half a Cable's Length; I should imagine not more.

Q. After we passed the Majestic, or the Ship that appeared to be so, what Orders did you receive from me respecting the steering the Ship?—A. To keep her as close to the Wind as the Sails would admit of.

Q. How many Ships of the Enemy's Line did the Cæsar receive the Fire of, after having passed the Majestic?—A. I really don't

know the Number; it was the greateſt Part of the Fleet, from the Centre to the Rear.

Q. Although the Cæſar could not be kept cloſe to the Wind, from the Situation of her Maſts and Yards, did not the Enemy's Ships edge cloſe down, and keep a very heavy Fire upon us?—A. Yes.

Q. Did you make any Remark to me upon the Heavineſs of that Fire?—A. Yes; I did.

Q. Relate to the Court what thoſe Remarks were?—A. You came aft to me, and ſaid, Maſter, you have been in ſeveral Actions, did you ever ſee any Thing like this; I ſaid no; that I thought it was flaſhing Work; that it was the heavieſt Fire I ever ſaw in my Life.

Q. At the very preciſe Time that this Firing was upon us, did any of our own Ships to leeward fire at us?—A. After we had paſſed through our Line, we began to fire at the Enemy; but after a ſhort Time, ſeveral of the Ships to leeward of us were firing at the Enemy, and ſome of their Shot coming near us, which was perceived by you, and we were then apparently in a great deal of Smoke, you ordered the People to leave off firing, that the Ships to leeward might ſee our Colours, that they might not fire into us, and ordered the People to lay down at their Quarters; but, in coming near the Enemy's Rear Ships, we then began to fire again.

Q. Was the Cæſar cloſely engaged with three Ships of the Enemy's Rear in paſſing them?—A. Yes; ſhe was.

Q. At what Diſtance do you ſuppoſe ſhe muſt have paſſed to leeward of thoſe Ships?—A. From the Appearance of my Situation, I ſhould ſuppoſe about three Cable's Length.

Q. Were we as cloſe to them as we could get, and juſt before we began firing, what Orders did you receive from me?—A. To keep the Ship as cloſe to the Wind as poſſible, and get as near to theſe Ships as was in my Power.

Q. Were not Hands broke off from the Guns, when we were in Action, and running along the Enemy's Line, to get up the Working-Meſſenger, to replace the Main-ſtay that had been ſhot away?—A. Yes, I myſelf gave Orders, from the larboard Gangway, for it to be got up, and directed how it ſhould be fitted.

Q. Do you think, by the ſolemn Oath you have taken in this Court, that I could, in the Situation the Cæſar was, have puſhed that Ship through any Part of the Enemy's Line on that Day, as it was my Duty to have done, if I could have effected it?—A. I do upon my Oath ſay, that every Effort was made to get cloſe to the Enemy, and to put that Signal into Execution at all Times.

Sir Roger Curtis aſked,

Q. Having received Orders from Captain Molloy to puſh the Cæſar through the firſt Opening in the Britiſh Line, as ſoon as poſſible after wearing, was there no Opening by which you could paſs through the Line until you made the ſmall Attempt, as you call it, between the Orion and Invincible?—A. There was none that we could fetch but that.

Q. You

Q. You have before ſaid that you ſteered about half an Hour upon a Courſe parallel with the Britiſh Line: while you was ſteering that Courſe, did you ſee no Opening between the Ships of the Britiſh Van where the Cæſar might have been puſhed through had ſhe been hauled as cloſe to the Wind as ſhe could have laid?—A. I ſaw none.

Captain Molloy aſked,

Q. At what Rate did the Cæſar go after ſhe had wore in paſſing to leeward of the Line?—A. About five Knotts, or five and a half.

Q. Were the eight Ships of the Britiſh Van in cloſe Order?—A. Yes, they appeared to be in very cloſe Order.

Q. Do you take upon yourſelf to ſay that the Cæſar was half an Hour running paſt thoſe eight Ships?—A. I think, to the beſt of my Recollection, it could not be much leſs, it may be twenty Minutes.

Mr. John Shaw, Boatſwain of the Cæſar, called in and ſworn.

Sir Roger Curtis aſked,

Q. Was you in the Court Yeſterday while Lieutenant Wheatly was examining?—A. I was in the Court at the Beginning, about two Minutes, and when I was told I was doing wrong, I went out immediately.

The Court was cleared, and agreed, that it appearing that the Witneſs had been in Court during Part of the Examination of Lieutenant Wheatly, he could not be examined.

Mr. William Holmes, the Carpenter of the Cæſar, called in and ſworn.

Sir Roger Curtis aſked,

Q. Were you Carpenter of the Cæſar on the 29th of May laſt?—A. I was.

Q. Was the Fore-yard of the Cæſar wounded by a Shot on that Day?—A. It was; one of a large Size.

Q. Whereabouts upon the Yard, from the Cleet inwards, was the Wound?—A. About Nine Feet from the Cleet, on the larboard Weather Yard-arm.

Q. What was the Nature of the Wound?—A. The Shot went through the Centre of the Yard, from the after lower Part of the Yard, in a riſing Direction to the upper fore Part of the Yard.

Q. When did it happen?—A. I was firſt informed of it long before the Ship wore: as to the Time it happened I do not know.

Q. When did you begin to ſecure the Yard?—A. Not till the Ship had gone to leeward of the Line, and wore, and came on the larboard Tack again; I gave Directions that the Yard ſhould be ſecured before ſhe wore, and ordered ſome Men to get four or five Capſtain Bars on the Fore-caſtle; ſoon after that the Signal was made, I underſtand, to wear, and the Bars could not be put on till we came again on the larboard Tack.

Q. Did you then proſecute the Work, while you were on the ſtarboard Tack?—A. No.

Q. As you began to prepare to do it before you wore, do you know

why it was poſtponed until you got again up on the ſtarboard Tack?—A. Owing to the Ship being ſhortly put into a State to wear after I gave my Orders concerning the Barn; I went down below to give my Orders relating to the Shot-holes, that they might be ſtopped as faſt as poſſible.

Q. Do you mean to ſay that your being engaged in ſtopping the Shot-holes, prevented you paying Attention to the Fore-yard while you were ſo employed?—A. It certainly did.

Q. Did you make a Report of the Cæſar's making Water on the 29th of May?—A. I did; Captain Molloy ſent for me before we wore the firſt Time from the larboard Tack, and aſked me what Water the Ship made; I told him ſhe made a great Deal, but I was in Hopes in a ſhort Time to ſtop the worſt of it.

Q. Were you obliged to uſe your Pumps in conſequence of the Water you made before you wore?—A. Moſt undoubtedly.

Q. How long after you began to ſtop the Shot-holes was it before you got them under?—A. Not till near Sun-ſet.

Q. Did you uſe both the Hand and Chain Pumps?—A. Yes, we did; I did not attempt to rig the Hand Pumps until there was near three Feet Water in the Hold; but finding the Hand Pumps would not keep the Ship free, I came from the Wing to the Gun-deck, and got two of the Chain Pumps to work; the Water ſtill gaining very faſt upon us, I got the other two Chain Pumps to work; juſt before, to the beſt of my Recollection, when we got the two laſt Chain Pumps to work, the Ship was in the Act of wearing; the Man that was quartered in the Well, reported to me that one of the Chain Pumps blowed; I took one of my Men, by the name of John White, into the Well with me; I ſhewed him the Nature of the Pump, and deſired him to go to the Store-room, and get a ſlip of Lead, and a piece of Fear-nought under it, and nail it on the Pump as faſt as he could. Our Pumps were at work the whole of the Time we were running down the Line on the ſtarboard Tack. We received one Shot on the ſtarboard Side, about ten Inches abaft the Water Caſk, in a Direction with it, which increaſed our Leaks very much. The Man in the Well reported to me every two or three Minutes that the Water ſtill gained on all our Pumps; I went out on the upper Deck, I found the Hand Pumps were not then at work; I told Mr. Jones, the fourth Lieutenant, that he muſt keep the People to continue the Hand Pumps, and told him the Water was ſtill gaining on us; he immediately ordered the Pumps to be worked, which was continued through the whole of the Day and Night.

Captain Molloy aſked,

Q. A little before the Cæſar wore, did I not order you to go out on the Fore-yard, to tell me the Nature of the Wound the Yard had received?—A. You told me the Yard was wounded, but did not order me to go on the Yard.

Q. Did you go on the Yard, and report to me its Condition?—A. I did, and reported to the Captain that the Yard was much worſe than he imagined, and if it was not quickly ſecured, it would go away.

Q. Could

Q. Could we have worked the Guns on the Fore-yard without caſting off the Sail?—A. No, certainly.

Q. Did you tell Lieutenant Jones, on the Main-deck, that the Guns were of not ſo much Conſequence as the Pumps, and that, if the Pumps were not kept conſtantly at work, the Orlop-deck would blow?—A. I told Lieutenant Jones the Guns were of not ſo much Conſequence as the Pumps, but ſaid nothing relative to the Orlop-deck.

Q. Did you urge him, and the Lieutenants on the Lower-deck, to keep the Pumps at work?—A. I did.

Q. Did the Man ſtationed in the Well, to report to you the Quantity of Water the Ship made, run out of the Well upon the Water's coming in ſo rapidly?—A. He did.

The Court aſked,

Q. What was the greateſt Quantity of Water the Ship made at any one Time?—A. Four Feet and a half was the Account the Man reported to me; five Feet and an Inch was the moſt Water in her.

Captain Molloy aſked,

Q. At the Time every Pump was at work, was your Crew employed in ſtopping the Shot-holes?—A. Every Man that I had quartered with me.

Vice-Admiral Sir Alan Gardner called in and ſworn.

Sir Roger Curtis aſked,

Q. Was your Flag on board the Queen the 29th of May?—A. It was.

Q. Where was the Queen ſituated in the Line of Battle on that Day?—A. I was in the Van of the Fleet, until about half paſt 6 o'Clock in the Morning, when the Cæſar paſſed me to windward, and I became the ſecond Ship in the Line of Battle.

Q. Do you remember the Cæſar unbending her Main-top-ſail?—A. I do.

Q. Were you obliged in the Queen to ſhorten Sail at all while ſhe was unbending the Maintop-ſail, and bending another?—A I frequently backed the Mizen-top-ſail, and filled it occaſionally at Times; I was well advanced on the Weather Quarter of the Cæſar.

Q. Did you back the Mizen-top-ſail on Account of the Cæſar's being ſo near the Queen?—A. I backed it to prevent my being aboard of her.

Q. While the Cæſar was in a Situation that you were ſometimes on her Weather Quarter, as you have deſcribed, were any Reports made of the Cæſar's firing into the Queen?—A. After the Fire commenced on the Enemy's Van, the Cæſar once, I believe, was ſo ſituated, that a Shot or more from her might have ſtruck us, at leaſt I was informed ſo.

Q. What was then the Situation of the Cæſar with reſpect to the Queen?—A. She was on the Lee-bow rather advanced a-head, but on the Lee-bow of the Queen.

Q. How much to leeward of the Groin of the Queen do you think the

ſhe was?—A. When I ſtood upon the Lee-gangway, ſhe was open to leeward.

Q. Did the Cæſar fall to leeward in the Situation during the Time the Main-top-ſail was unbending, and another bent, and during which Period you have ſaid you were frequently obliged to back the Mizen-top-ſail to prevent being on board her?—A. I backed the Mizen-top-ſail occaſionally before the Main-top-ſail was bent; the Action did not commence until ſome Minutes after the Main-top-ſail was bent, and ſet; I might have backed it after the Action commenced, and am pretty certain I did; I generally ſhivered it.

Q. Was the Object to avoid being aboard the Cæſar?—A. I could have no other Reaſon, I wiſhed to be as near the Cæſar as I could.

Q. Did the Cæſar fall into the Situation you have before deſcribed, after the Commencement of the Action?—A. The Cæſar was rather on the Lee-bow of the Queen previous to her wearing.

Q. What Reefs had the Cæſar in her Top-ſails?—A. Three.

Q. The Cæſar having three Reefs in her Top-ſails with the Main-top-ſail unbent, is it your Opinion ſhe fell to leeward into the Situation you have before deſcribed, in conſequence of being under ſuch reduced Sail?—A. I ſuppoſe that a Ship will not keep ſo good a Wind with her Main-top-ſail unbent; the Cæſar at Times was open on our Weather-bow, and ſometimes on our Lee-bow, which might have ariſen from the unſteadineſs of the Man at the Helm.

Q. Do you conceive that treble Reefed Top-ſails, and the other Sail the Cæſar had out, a proper Proportion of Sail conſiſtent with the apparent Intentions of the Admiral, and the Situation of the two Fleets, even before the Signal was made for the Van Ship to make more Sail?—A. I conceive that when the Signal for a Line of Battle is made, that Attention muſt be paid to the then Situation of the Fleet, and the Proportion of Sail carried by the Commander in Chief.

The Court aſked,

Q. If the Cæſar had ſet more Sail, would it have ſubjected her to have ſhot a-head of the Van of the Enemy?—A. By no means, for the Enemy's Ships had their Main-ſails ſet.

Sir Roger Curtis aſked,

Q. Did you obſerve, while the Cæſar was under treble Reef Top-ſails, that the Van Squadron of the Britiſh Fleet were at all crowded in conſequence of the Proportion of Sail the Cæſar carried?—A. The Van were certainly very cloſe to each other, and when the Signal was made to make more Sail, the Main-ſail of the Queen was ſet, which preſſed us up to the Cæſar undoubtedly, and the Ships aſtern alſo.

Q. Were you obliged to haul your Main-ſail up after the Signal to make more Sail had been made in conſequence of the Situation of the Cæſar?—A. I don't recollect I hauled the Main-ſail up, but I backed the Mizen-top-ſail frequently.

Q. Was the Diſtance between the Engliſh and French Vans, ſuch as in your Opinion was likely to produce a deciſive Action by a Continuation of the Fire in that Situation?—A. No, by no means.

Q. After

Q. After the Britiſh Fleet had, in the Morning, tacked from the ſtarboard Tack to go upon the larboard, did not the Admiral make the Signal that Ships were at Liberty to fire upon the Enemy in paſſing them, though not propoſed to bring them to general Action immediately?—A. Yes, it was.

Q. Do you, as a Flag Officer, conceive that the Admiral meant by that Signal, that the Britiſh Fleet would not fetch near enough to the Enemy for commencing a general Action?—A. I conceive the Purport was not to bring them to general Action.

Q. When the Signal was firſt made on the Morning of the Twenty-ninth, to tack in ſucceſſion from the ſtarboard Tack to go upon the larboard, the Enemy's Line being upon the ſtarboard Tack, to windward of the Britiſh Fleet, was the Van of the Britiſh Fleet ſo ſituated that there was a probable Proſpect of the Van Ships fetching up on the other Tack upon the Rear of the Enemy?—A. There was a great Probability, becauſe I looked up to windward of the Rear of the French Fleet conſiderably.

Q. Are you of Opinion, that the Signal to paſs through the Enemy's Line, for engaging them to windward, was made by the Admiral with the Expectation of the Van fetching the Enemy's Rear?—A. Certainly.

Q. The Enemy's Fleet having the Weather-gage of the Britiſh, and the Admiral having indicated by theſe Movements his Intentions to gain the Wind of them, if practicable, could it be accompliſhed, unleſs a commanding Sail had been carried by the Britiſh Fleet?—A. Certainly not.

Q. Situated as the two Fleets were in the diſtant Action you have before deſcribed, do you think any poſſible Advantages could have occurred to the Britiſh Fleet by remaining longer on the larboard Tack?—A. I am of Opinion, that if we had remained on the larboard Tack much longer than the Fleet did, we ſhould have ſuffered conſiderably; and the Reaſon I think ſo, is, becauſe the French Fleet ſhewed no Diſpoſition to come down. they were a conſiderable Diſtance from us.

Q. Did you happen to obſerve the Van Ship of the Enemy about the Time the Cæſar wore?—A. Yes, I think I did.

Q. Was her Situation ſuch, in your Opinion, that if the Fleet had continued upon the larboard Tack a little longer, that the Ship would have ſtruck to the Cæſar?—A. I ſhould ſuppoſe not, from the Damages that the Enemy appeared to have received; they did not appear to have received any material Damage.

Q. What, in your Opinion, was the Diſtance of the Van of the two Fleets from each other while they were engaged?—A. I ſhould ſuppoſe they were half a Mile off at leaſt.

Q. Did you obſerve the Cæſar wear to come on the ſtarboard Tack, in conſequence of the laſt Signal to tack in Succeſſion?—A. Yes.

Q. Did you make any Obſervation on her at the Time of her wearing?—A. Yes, when the Cæſar ſhivered her Mizen-top-ſail, I ordered Captain Hutt to be ready to wear immediately after her, and that I ſhould put the Helm up before ſhe (the Cæſar) was the Length of our Cheſttre; the Signal had been made to tack; but finding the Cæſar wearing,

wearing, having made the Signal of Inability, we prepared to follow her, concluding that ſomething had happened to her, but that ſhe would haul to the Wind on the ſtarboard Tack, and paſs through the Ruſſel and Valiant, the two next Ships aſtern of us.

Q. Did the Cæſar run conſiderably to leeward, before you ſaw her hauled round towards the ſtarboard Tack?—A. The Cæſar paſſed us at no conſiderable Diſtance, but I did not ſee her haul to the Wind on the ſtarboard Tack; ſhe paſſed to leeward of the Ruſſel, the Valiant, and Royal George, which is all I obſerved.

Q. At what Diſtance was ſhe to leeward of the Britiſh Line, when you laſt ſaw her about the Ruſſel, or Royal George?—A. She could not be at any great Diſtance; I ſhould think ſhe wore immediately after ſhe hauled to the Wind, cloſe under the Stern of the Ruſſel.

Q. When ſhe paſſed the Queen at no great Diſtance, as you have before deſcribed, could ſhe have fetched between the Ruſſel and Valiant where you went through?—A. I am of Opinion ſhe could have fetched through; a 90 Gun-Ship wore, and went round the Ship that was next aſtern of us.

Q. Did the Cæſar ſet her Main-ſail after wearing?—A. She paſſed the Queen under her Fore-ſail, three Top-ſails, the Mizen Stay-ſail hailed up, and, to the beſt of my Remembrance, her Foretop-maſt Stay-ſail hoiſted.

Q. Did you obſerve any After-ſail ſet upon the Cæſar?—A. No more than what I mentioned.

Q. How many Reefs were upon the Queen's Top-ſails when ſhe wore to go upon the ſtarboard Tack?—A. Two.

Q. Did ſhe ſet her Main-ſail immediately after wearing?—A. Immediately.

Q. And what other Sail?—A. The Jib, the Foretop-maſt Stay-ſail, Maintop-maſt Stay-ſail, Mizen Stay-ſail, were ſet previous to our wearing, and were not hauled down.

Q. Is the Queen a ſtiff Ship under her Canvas?—A. Tolerably ſo.

Q. Did ſhe carry double-reefed Top-ſails, Courſes, Jib, and Stay-ſails by a Wind, in approaching the Enemy's Line, without Inconvenience?—A. Without the leaſt Inconvenience.

Captain Molloy's Report to the Commander in Chief, of his Proceedings in the Cæſar on the 29th of May, was read by the Deſire of Sir Roger Curtis.

Q. At the Time of the Cæſar's wearing, did you ſee the Cæſar's Fore-ſail blow upon the Yard?—A. No.

Q. Did you ſee that the Cæſar was any where apparently diſabled?—A Apparently not diſabled any more than ſhot through her Sails, and Rigging cut a great Deal, I ſuppoſe, for we had our's cut a great Deal

Q. What Part of the French Line did the Queen fetch?—A. The third Ship of the Van opened her Fire upon us, and we fetched pretty cloſe to the Centre of the Enemy's Fleet.

Q. As the Queen hauled to the Wind under the Stern of the Ruſſel, and approached the Enemy's Line with the Sail you have before deſcribed, and fetched only pretty near the Centre of the Enemy's Line,

was

was it poſſible for the Cæſar, after you ſaw her the Diſtance of the Royal George, to have fetched within half a Mile of the ſixth Ship from the Enemy's Van?—A. I ſhould ſuppoſe not.

Q. While the Queen, upon the ſtarboard Tack, was paſſing along the Enemy's Line, and cloſely engaged with it, did the Queen receive any Support from the Cæſar?—A. I did not ſee the Cæſar until we had reached within four Ships of the Enemy's Rear, at which Time ſhe was upon our Lee-beam.

Q. At what Diſtance upon the Queen's Lee-beam was the Cæſar?—A. I am ſure I ſpeak within Bounds when I ſay more than a Quarter of a Mile.

Q. How far diſtant, in your Eſtimation, was the Cæſar then from the neareſt Ship of the Enemy?—A. The Queen was very cloſe to the fourth or fifth Ship of the Enemy, between which I attempted to go through, but could not effect it; the Cæſar therefore could not be more than two or three Cables Length further than the Quarter of a Mile before ſtated.

Q. What Sail was the Cæſar then under?—A. I cannot particularly ſay; but to the beſt of my Recollection three Topſails and Foreſail.

Q. Did you ſee the Cæſar cloſely engaged with the three Rear Ships of the Enemy?—A. I was the headmoſt Ship, and the Cæſar paſſed to leeward of the Rear of the Enemy; I did not ſee the Cæſar engaged with the three Rear Ships of the Enemy.

Q. While the Cæſar was to leeward of the Queen, as you have before deſcribed, was it reported to you that the Cæſar was firing into the Queen?—A. Yes; the Signal Officer, Lieutenant Dawes, called to me from the Poop, and informed me that the Cæſar was to leeward, and that ſhe was firing into the Ship; I told him I could not prevent it; but that the Cæſar would not fire ſo ſoon as ſhe perceived ſhe was an Engliſh Ship.

Q. Did you at any Time obſerve eight Sail of the Line of the Enemy cloſing with each other, and edging down towards the Cæſar as you approached the Rear of the Enemy's Fleet, when leading the Britiſh Fleet along to leeward of the French Line?—A. No.

Four o'Clock, the Court adjourned.

Nine o'Clock, Thurſday the 30th, the Court met according to Adjournment.

Sir Alan Gardner called in again.

Sir Roger Curtis aſked,

Q. After you ſaw the Cæſar upon your Lee-beam, when you arrived towards the Rear of the Enemy's Line, did you make any Signal to the Cæſar?—A. After I had paſſed the Rear Ships of the French Fleet, I immediately endeavoured to wear the Ship, and to lay her Head towards the Enemy, and this I with Difficulty effected, after having reaved the Geer, and ſet the Spritſail; on my coming to the Wind on the larboard Tack, I obſerved the Charlotte, and ſeveral other Ships, engaged with the Enemy; the Royal George was near upon my Weather-beam, and the Cæſar, under her Topſails and Foreſail, on the ſtarboard Tack, was on my Weather Quarter; I directed

that her Signal ſhould be made to attack the Rear of the Enemy; the Signal was made, and an anſwering Flag hoiſted on board the Cæſar, and ſhe tacked or wore ſoon after, which, I don't know.

Q. Did you make any Signal to the Cæſar which was omitted to be inſerted in your Accounts of the Signals made by you?—A. The Signal I have juſt now mentioned to have made, is not noted or ſet down in the Signal-officer's Book, but it was made, and there is Evidence to prove it.

Q. What was your Motive for making that Signal to the Cæſar?—A. I conceived that ſhe was in a State to attack and harraſs the Enemy.

Q. Was ſhe, then, laying inactive when you made this Signal?—A. She was on the ſtarboard Tack, and far out of Gun-ſhot of the Enemy.

The Court aſked,

Q. What Difference in common ſailing in the Line was there between the Queen and Cæſar?—A. The Cæſar's Station being the leading Ship in the Line, and the Queen being ſtationed a-ſtern of the Commander in Chief, I had not an Opportunity of trying in the Line of Battle. I was a-ſtern of the Cæſar on the 29th of May, and face-reached frequently upon her, and back'd the Mizentop-ſail; the Cæſar undoubtedly could ſpare me a good deal of Sail, I ſuppoſe a Mainſail, if not a Maintop-maſt Stayſail alſo.

Q. In the diſtinguiſhed Situation you held on the 29th of May 1794, in the Britiſh Fleet, and as you were near the Cæſar at different Times that Day, whilſt in Action, do you think that Captain Molloy, commanding his Majeſty's Ship Cæſar, did uſe his utmoſt Endeavours to paſs through the Enemy's Line on the 29th of May?—A. I did not ſee any Attempt of the Cæſar's to paſs through the Enemy's Line on that Day.

Captain Molloy ſaid,

Fully perſuaded, Sir Alan, that the moſt honourable Integrity has formed all your Opinions according to the Appearances you had the Opportunity of noticing, I ſhall not take the Liberty of aſking you a ſingle Queſtion in the Form of a Croſs Examination.

Captain William Bedford, of his Majeſty's Ship Queen, called in and ſworn.

Sir Roger Curtis aſked,

Q. Were you firſt Lieutenant of the Queen on the 29th of May laſt?—A. Yes.

Q. Was the Queen the next Ship in Succeſſion in the Order of Battle to the Cæſar on that Day?—A. Yes.

Q. Was the Cæſar's Signal to make more Sail, made while you were on the larboard Tack?—A. Yes.

Q. What Sail was the Cæſar under when that Signal was made?—A. I think her Foreſail and treble-reefed Topſails.

Q. Did you obſerve what Increaſe of Sail the Cæſar made in Conſequence of that Signal?—A. I did not obſerve any Increaſe of Sail.

Q. Was the Signal to make more Sail, made afterwards to the Cæſar?—A. I think it was.

Q. Did

Q. Did the Cæſar unbend her Maintop-ſail?—A. Yes.

Q. Did you obſerve what Increaſe of Sail ſhe made to ſupply the Deficiency of Sail for the Maintop-ſail?—A. None, I believe; as we had Occaſion to back our Mizentop-ſail, and Orders were given to be ready to back the Maintop-ſail alſo.

Q. Had you Occaſion to ſhorten Sail in Conſequence of being near the Cæſar, previous to her unbending her Maintop-ſail?—A. I think not.

Q. Did the Cæſar, while unbending the Maintop-ſail, and bending another, drop to leeward of the Queen?—A. Yes.

Q. During the Time the Van Ships of the Britiſh Fleet were firing at the French Fleet, was the Cæſar in her Station in the Line, a-head of the Queen, or to leeward of the Queen?—A. To leeward and a-head when we began; but very ſhortly on our Lee-bow.

Q. While the firing continued, did the Queen receive any Shot from the Cæſar?—A. It was the general Opinion of the Officers and Men, I think, from the Situation of the Cæſar, it was poſſible.

Q. To what did you attribute the Cæſar's having fallen into that Situation?—A. I ſhould ſuppoſe from not having made Sail.

Q. What was the Diſtance, in your Eſtimation, between the Van of the Britiſh, and the Van of the French Fleet, while engaging on the larboard Tack?—A. From a Mile to a Mile and a half, I ſuppoſe.

Q. Did you happen to take Notice of the Van Ship of the French Line, about the ſame Time the Cæſar wore?—A. I don't remember any Thing particular.

Q. Did you obſerve the Cæſar to wear to come to the Wind on the ſtarboard Tack, in Conſequence of the Signal to tack in Succeſſion?—A. Not immediately; ſhe wore in Conſequence of the Signal, I ſuppoſe.

Q. Did you make any Obſervations on the Conduct of the Cæſar at the Time of her wearing?—A. I ſaw nothing to prevent her from ſtaying or wearing.

Q. Did you ſee her haul to the Wind on the ſtarboard Tack, after wearing?—A. No.

Q. How did ſhe proceed?—A. By going large, going from the Wind.

Q. Did you wear, or tack, in the Queen?—A. Wear.

Q. Under what Ship's Stern in the Britiſh Line did you paſs, to get to windward of them?—A. Under the Ruſſel's Stern, which was the next Ship to us.

Q. As you in the Queen, after wearing, was able to paſs through the Britiſh Line, under the Stern of the Ruſſel, the next Ship to you, did you ſee any Impediment to the Cæſar's paſſing through the Britiſh Line under your Stern, or at leaſt under the Stern of the Ruſſel, where you went?—A. No, none; for ſhe ſailed much better than the Queen.

Q. When did you next ſee the Cæſar again, after you wore to approach the Enemy's Line?—A. To the beſt of my Recollection, when the Queen was oppoſed to the fourth or fifth Ship of the Enemy's Rear, when my Attention was called to the Cæſar, by the Officers obſerving to Sir Alan Gardner ſhe was firing into us.

Q. What was then the Cæſar's Situation in reſpect to the Queen?—

A. Some Diſtance to leeward, more than a Quarter of a Mile from thence, to Half a Mile, rather before our Lee-beam.

Q. How far diſtant, in your Eſtimation, was the Cæſar then from the Three rear Ships of the Enemy?—A. From Half a Mile to Three Quarters of a Mile, for we were very cloſely engaged at that Time, and the Enemy's Rear was in a huddle together.

Q. Did you at any Time before, or any Time afterwards, ſee the Cæſar any nearer than ſhe then was to the Three rear Ships of the Enemy?—A. No.

Q. When you ſaw the Cæſar about a Quarter of a Mile to leeward, rather before your Beam, what Sail had ſhe out, and how was ſhe ſteering?—A. As well as I can recollect, the ſame Sails, the Fore-ſail and Top-ſails, going large.

Q. Had ſhe any After-ſail?—A. I think not, I don't recollect any.

Q. As you paſſed along to leeward of the Enemy's Line in the Queen, did you, at any Time, obſerve Eight Sail of the Line of the Enemy's cloſing to each other, and edging down towards the Cæſar?—A. No, I obſerved the Enemy's Rear cloſe.

Q. Did you ſee any Ships edge down towards the Cæſar?—A. No.

Q. Did you ſee the Cæſar cloſely engaged, at any Time, with the Three rear Ships of the Enemy?—A. Not nearer than Three Quarters of a Mile, I think.

Q. Do you remember that any Signals were made to the Cæſar from the Queen, after you ſaw her firſt to leeward of you, in the Manner you before deſcribed?—A. Yes, the Signal was made by the Queen for the Cæſar to attack, and haraſs the Enemy's Rear.

Q. In what Situation was the Cæſar when the Signal was made?—A. To leeward, apparently little damaged, nothing particularly ſtruck me; ſhe had not loſt any Maſts or Yards, that I obſerved.

The Court aſked,

Q. Did you obſerve any Water coming from her that might indicate her being leaky?—A. No Signal being made that ſhe was leaky, my Attention was not drawn to that Object; I did not obſerve it.

Sir Roger Curtis aſked,

Q. Do you remember any other Signals were made to the Cæſar at that Time?—A. No.

The Court aſked,

Q. Did the Cæſar anſwer that Signal?—A. I ſuppoſe ſo from ſeeing her anſwering Jack up.

Q. Did ſhe take any Steps in Conſequence of that Signal?—A. I did not obſerve any.

Q. In the Situation you were in the Britiſh Fleet, on the 29th of May, 1794, and being near the Cæſar at different Times, whilſt in Action, do you think that Captain Molloy, commanding his Majeſty's Ship Cæſar, did uſe his utmoſt Endeavours to paſs through the Enemy's Line on the 29th of May?—A. In my Opinion he did not.

Captain Molloy ſaid, that being extremely anxious to ſave the Time of the Court, he would not aſk Captain Bedford a ſingle Queſtion.

Captain

Captain John Thomas Duckworth, of his Majeſty's ſhip Leviathan, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Captain of the Orion on the 29th of May laſt?—A. I was.

Q. What was your Second a-head and aſtern, in the Order of Battle, on that Day?—A. The Signal being made to form the Order of Battle as moſt convenient, the Invincible became my Second a-head, and the Majeſtic my Second a-ſtern.

Q. Did you ſee the Cæſar that Day after ſhe wore from the larboard Tack, in conſequence of the Signal to Tack in Succeſſion?—A. I did.

Q. What was her Situation when you firſt ſaw her?—A. When I firſt ſaw her ſhe was running along the Line to leeward, and paſſed the Orion; after which, being in the Act of wearing myſelf, I did not obſerve any further Proceedings of the Cæſar.

Q. When ſhe was paſſing along to leeward of the Britiſh Line, as you have before deſcribed, what Courſe was ſhe ſteering?—A. I did not exactly obſerve the Point of the Compaſs, but the Wind was certainly abaft the Beam.

Q. Do you recollect what the Diſtance was between the Orion and the Majeſtic, your Second a-ſtern?—A. In my Opinion, at leaſt, Three Quarters of a Mile.

Q. Did you ſee any poſſible Impediment why the Cæſar might not have gone through the Britiſh Line, under your Stern, or between the Orion and Majeſtic?—A. There was, apparently, none whatever; I ſaw her ſo diſtinctly, as not to obſerve any Reaſon why ſhe might not have paſſed through the Orion and Majeſtic.

Q. Did you tack or wear in the Orion?—A. I wore, not having a Brace or Bowline ſtanding, we were in the Act of reaving new ones at the Time.

Q. With Braces and Bowlines ſhot away, as you have now ſtated, did you Weather the Majeſtic, your Second aſtern, in paſſing through the Britiſh Line?—A Conſiderably.

Q. What Part of the French Line did the Orion fetch?—A. I thought it was the Tenth Ship of the Line from the Van, a-head of the Montagne.

Q. Was the Orion pretty roughly handled in paſſing down to leeward of the French Line?—A. Very much in her Sails and Rigging.

Q. Were you, nevertheleſs, able to go through any Part of it?—A. The Orion paſſed through the Enemy's Line between the Rear Ship and her Second.

The Court aſked,

Q. Did the Orion follow by Succeſſion, in her wearing, the Ships in the Line preceding her?—A. The Orion followed the Invincible, our Second a-head, cloſe upon her Weather Quarter.

Q. In the Act of wearing, with the Ships you have mentioned, was you in the Way of the Cæſar wearing and hauling her Wind to gain to windward, to anſwer the Purpoſe of the Signal then out?—A. The

Cæſar

Cæſar having paſſed the Orion before the Orion began to wear, ſhe could not have been in her Way.

Q. Do you think that Captain Molloy did his utmoſt Endeavours to paſs through Enemy's Line, on the 29th of May?—A. Being fully employed in attending to the Situation of my own Ship, and my Seconds, and warmly in Action, I did not obſerve any Proceedings of the Cæſar, except in the Act of wearing.

Sir Andrew Douglas, Knt. Captain of his Majeſty's Ship Queen Charlotte, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Captain of the Queen Charlotte on the 29th of May laſt?—A. I was.

Q. Did you ſee the Cæſar that Day, after ſhe wore from the larboard Tack?—A. I did.

Q. What was her Situation when you ſaw her, in reſpect to the Britiſh and French Lines?—A. When I firſt ſaw her, ſhe appeared coming out of the Smoke upon the Queen Charlotte's larboard Bow; the Diſtance ſhe might be, at that Time, off, is rather uncertain; but I can ſpeak more pointedly to the Diſtance which ſhe paſſed from the Queen Charlotte.

Q. At what Diſtance from the Queen Charlotte do you apprehend ſhe paſſed?—A. I ſhould think from Two to Three Cable's length, on the Weather Beam; I mean to ſtate the utmoſt Extent of her Diſtance.

Q. Was ſhe, in your Judgment, nearer to the Britiſh Line than ſhe was to the French?—A. Yes.

Q. When you firſt ſaw the Cæſar to windward, as you have before deſcribed, do you recollect any Obſervations that were made from me to the Admiral, or from his Lordſhip to me, reſpecting the Situation of the Cæſar?—A. I do not particularly remember by whom, or to whom, ſome Remarks were made; but recollect perfectly well, what paſſed upon the Poop of the Queen Charlotte, at the Time you alluide to.

Q. Be pleaſed to relate the Circumſtances to the Court.—A. When the Cæſar was diſcovered, ſhe was ſteering on a Parallel to the then Courſe of the Britiſh Fleet, different Ways; as ſhe approached, ſhe edged more towards the Britiſh Fleet; at that Time the Queen was diſcovered in very cloſe Action with the Enemy, and upon the Cæſar's Weather Quarter; at this Time the Admiral ſaid, I muſt go immediately to the Support of the Queen, and gave me Orders to tack the Ship; we had Three double-reef'd Top-ſails, and the Fore-ſail ſet, and the Main-tack was hauled on board, and the Ship tack'd accordingly; at this Time the Cæſar had paſſed us.

Q. What Sail had the Cæſar ſet, to the beſt of your Recollection, when ſhe paſſed the Queen Charlotte?—A. Three Top-ſails, I cannot ſay whether there were Three Reefs in them, but certainly Two, Fore-ſail, Foretop-maſt Stay-ſail, and, to the beſt of my Recollection, no After-ſail ſet; but as it is ſo long ago, and I took no Minutes of the Tranſaction, I do not ſpeak poſitively to that particular Fact of the After ſail.

Q. Was

Q. Was the Sail which the Cæſar then carried, perfectly and completely ſet?—A. It appeared to me ſo.

Q. Did you, in particular, notice any Imperfections of the ſetting of the Fore-ſail?—A. I did not,

Q. Was the Weather ſuch that more Sail might have conveniently been carried than the Cæſar then had out?—A. I ſhould ſuppoſe ſo, becauſe we carried double-reefed Top-ſails, the Courſes, Jib, and Main top-maſt Stay-ſail, through the Enemy's Line.

Q. Were you able to fight the Queen Charlotte's lower Deck Guns on both Sides, in paſſing the Enemy's Line with that Sail out?—A. Yes, we took Water in at the lower Deck Ports, but at that Time we carried our Ports very low.

Q. When the Cæſar was paſſing the Queen Charlotte, as has been before ſtated, what appeared to be her Condition in reſpect to any Damages ſhe might have received?—A. I ſaw ſome Shot-holes through her Sails, but nothing particular appeared.

Q. As far as you can judge of a Ship, looking at her from another, with the Sail the Cæſar then had out, and the Manner in which it was ſet, are you of Opinion ſhe might, with facility, have fetched to the Enemy's Line had ſhe been hauled to the Wind, although ſhe might not have been able to have gone through it?—A. Had ſhe been hauled to the Wind with her Three Top-ſails and Fore-ſail, which is the Sail I have before ſtated her to be under, I can have no Doubt but ſhe muſt ſoon have got into cloſe Action with the Enemy, becauſe the Queen Charlotte was the Tenth Ship from the Van of the Britiſh Fleet, and we were enabled to paſs between the Fifth and Sixth Ships of the Enemy's Rear.

Q. During the Time the Cæſar was in your View, after paſſing the Queen Charlotte, did you obſerve her to haul more to the Wind than the Courſe you have before ſtated ſhe was ſteering?—A. No, but I never looked at her after ſhe paſſed our Quarter, that is, was fairly a-ſtern, my Attention being taken up in the Execution of the Admiral's Orders.

Q. What was the Effect in the Order of Battle that Day, while on the larboard Tack from the Want of more Sail being carried in the Cæſar?—A. The Enemy's Fleet having the Weather Gage, ſhewed it to be their Intention to endeavour to diſable the Britiſh Fleet by a diſtant Cannonade; it therefore became the Object of the Britiſh Fleet, and the Admiral's Intention, to ſtretch as far a-head as poſſible, in order that we might be able to come to cloſe Action with as many of the Enemy's Ships as could be fetched; when the Fleet tacked in Succeſſion, we were at firſt nearly, I believe, at, or about the Commencement of our firing. Our Van, under their Courſes, and double reef'd Top-ſails; in conſequence of the little Sail that was carried in the Van, we were, in the Queen Charlotte, obliged firſt to haul up the Lee Clue Garnet of the Main-ſail, then the Weather one, then the Lee Clue Garnet of the Fore-ſail, then back'd the Mizen top-ſail, filled the Mizen top-ſail, and at length were obliged to back the Main top-ſail, by which we dropped conſiderably to leeward of our Station in the Line; very ſoon after this we filled it again, and

ſhortly

ſhortly afterwards ſet all our Sail, and tacked as I have before deſcribed.

Q. By what Ships of the Britiſh Fleet was the Queen Charlotte followed through the Enemy's Line?—By our then Seconds a-head and a-ſtern, by the Bellerophon, Rear Admiral Paſley, and the Leviathan, Lord Hugh Seymour.

Q. After the Queen Charlotte had gone through the Line in the Manner you have before ſtated, and had tacked again upon the larboard Tack, were the Bellerophon and Leviathan the neareſt of the Britiſh Ships for ſupporting the Admiral?—A. Yes.

Q. You will be pleaſed to relate to the Court any other Circumſtances you know reſpecting the Conduct of the Cæſar on the 29th of May?—A. I don't recollect any Thing elſe reſpecting the Conduct of the Cæſar. The Cauſe and Effect that the Cæſar's Conduct produced upon the Admiral's Intentions, are already before the Court.

The Court aſked,

Q. What Sail did the Cæſar ſpare the Charlotte in Order of ſailing?—A. She was a very ſuperior ſailing Ship to the Charlotte.

Q. Do you think that Captain Molloy did uſe his utmoſt Endeavours to paſs through the Enemy's Line, on the 29th of May?—A. I conceive it already anſwered, that I am of Opinion the Cæſar might have come into cloſe Action.

Sir Roger Curtis aſked,

Q. Do you remember by which Ships of the Britiſh Fleet the Queen was followed in cloſe Action, in paſſing to leeward of the Enemy's Line?—A. I believe by all the Ships a-ſtern of the Queen, as far as the Orion, under which Ship's Stern we paſſed very cloſe before we went through the Enemy's Line, and they were all in cloſe Action with the Enemy; I do not mean to ſpeak of the Ships a-ſtern of the Orion, as the others only come under my Obſervation, and we were very ſoon engaged ourſelves, ſo that I could not take particular Notice.

Lieutenant James Bowen, of his Majeſty's Ship Queen Charlotte, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Maſter of the Queen Charlotte on the 29th of May laſt?—A. I was.

Q. Did you ſee the Cæſar on the 29th of May laſt, after ſhe wore to come upon a Wind on the ſtarboard Tack, in Conſequence of the Signal to tack in Succeſſion?—A. I did.

Q. In what Situation, in reſpect to the Britiſh Line, was ſhe when you ſaw her?—A. On the Queen Charlotte's Weather Bow.

Q. At the Time ſhe was thus ſeen upon the Queen Charlotte's Weather Bow, do you recollect any Remarks made by the Commander in Chief reſpecting the Cæſar's Situation, or any that were made to him upon the ſame Occaſion?—A. I recollect my Lord Howe expreſſed great Surpriſe, and deſired the Cæſar's Signal might be made, or Words to that Effect, and ſaid, they had miſtaken it; I underſtood it was to keep the Wind, and he ſpoke to Sir Roger Curtis; he ſaid

we muſt go about, and ſhew them what to do, we muſt ſhew them ourſelves, or Words to that Purport, and aſked me if the Ship would ſtay; I told him I thought ſhe would, the Orders were given immediately to get all ready for going about; as ſoon as every Thing was clear, the Helm was put down, and ſhe came round, and filled on the other Tack; we then kept the Wind with the Main Tack, and all on board, and paſſed acroſs the Cæſar's Stern, to windward of the Cæſar, who appeared to be ſteering large; I then was ſo much engaged with our own ſhip that I ſaw no more of her.

The Court aſked,

Q. Are you poſitive you paſſed to windward of the Cæſar?—A. Yes, on the ſtarboard Tack.

Sir Roger Curtis aſked,

Q. What Courſe do you think the Cæſar was ſteering, having ſaid ſhe was ſteering large?—A. The Wind being about South, I think ſhe was ſteering about Eaſt, and by North or E. N. E. Three or Four Points from the Wind.

Q. What Sail had the Cæſar ſet, when ſhe paſſed to windward of the Queen Charlotte?—A. Three Top-ſails and Fore-ſail.

Q. Had ſhe any Stay-ſails?—A. I don't recollect any but the Foretop-maſt Stay-ſail.

Q. Had ſhe any Sort of After-ſail ſet for keeping to the Wind?—A. The Mizentop-ſail only, that I obſerved.

Q. How many Reefs had ſhe in her Top-ſails, to the beſt of your Judgment?—A. I did not particularly obſerve the Reefs, her Top-ſail-yards appeared to be about half up.

Q. Were thoſe Sails which the Cæſar carried, completely and perfectly ſet?—A. They appeared ſet, but not trimmed to the Wind.

The Court aſked,

Q. Did it appear to you that the Fore Tack was on board?—A. She being on the contrary Tack, I could not ſee whether it was well on board, her Fore-ſail was down.

Sir Roger Curtis aſked,

Q. Did the Fore-ſail appear to be improperly ſet?—A. Not very improperly, from the Courſe ſhe was ſteering.

Q. How near to the Queen Charlotte did the Cæſar paſs?—A. When ſhe was abreaſt of us, nearly within hail.

Q. If the Cæſar had been hauled towards the Wind, with the Sails ſet, as you have deſcribed them to be, would ſhe have fetched the Enemy's Line?—A. With the Sails as they appeared to me to be trimmed, I think ſhe would not; I think ſhe might have kept a Point nearer to the Wind; ſhe might have laid a Point nearer to the Wind without altering the Yards.

Q. What appeared to you to be the Cæſar's Condition, with reſpect to any Damages ſhe might have received?—A. I ſaw nothing about her diſabled.

Q. Was the Queen Charlotte obliged to ſhorten Sail on account of the Van Ships cloſing back, while upon the larboard Tack?—A. She was.

Q. Was ſhe thereby driven conſiderably to leeward of her Station?—A. In conſequence of hauling the Main-ſail up, and backing the

Mizentop-ſail to keep a-ſtern of the Leviathan, we fell conſiderably to leeward, and was ſome Time before we could gain our Station, with all our Endeavours.

Q. Was the Centre and Rear Squadrons of the Fleet generally much crowded together in Conſequence of not more Sail being carried in the Van?—A. Very much, oftentimes, I perceived it.

Q. Was the Signal made for the Ships a-ſtern to open to a greater Diſtance?—A. I remember it was.

Q. Was it made more than once?—A. I don't recollect, I remember once very particular.

Q. Do you know the Signal was made for the Cæſar to make more Sail while upon the larboard Tack?—A. It was made twice in the Morning.

Q. What Ships followed the Queen Charlotte through the Enemy's Line?—A. The Bellerophon was the neareſt Ship to the Queen Charlotte, the Leviathan I ſaw, after we got through the Line, alſo to windward of the Enemy's Line, if ſhe came through the Line it muſt be far in the Rear.

Q. After the Queen Charlotte had paſſed through the Enemy's Line, and tacked, to be upon the ſame Tack with the Enemy, which of the Ships of the Britiſh Line were the neareſt to her?—A. The Bellerophon and Leviathan were on our Lee Quarter, on the ſame Tack.

The Right Honourable Lord Hugh Seymour, Captain of his Majeſty's Ship Sans Pareil, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Was your Lordſhip Captain of the Leviathan on the 29th of May laſt?—A. I was.

Q. In what Part of the Britiſh Line was the Leviathan ſituated that Day?—A. I think the Eighth or Ninth Ship, but certainly the Ship a-head of the Queen Charlotte, I mean when upon the larboard Tack

Q. What was the Ship next a-head of the Leviathan?—A. The Majeſtic.

Q. Did you ſee the Cæſar on the 29th of May, after ſhe wore to come to the ſtarboard Tack, in Conſequence of the Signal to tack in Succeſſion?—A. I did.

Q. In what Situation, with reſpect to the Leviathan, did you firſt diſcover her?—A. On contrary Tacks, and to windward very much.

Q. What Sail had ſhe then ſet to the beſt of your Lordſhip's Recollection?—A. I cannot anſwer that Queſtion exactly, I ſhould think her Fore-ſail and Top-ſails, but whether double or treble-reef'd, I proteſt I cannot ſay; I do not mean to ſay that ſhe had no other Sail.

Q. Did the Sail ſhe carried appear to your Lordſhip to be completely and perfectly ſet?—A. I do not recollect to have remarked to the contrary.

Q. In particular, did your Lordſhip obſerve any Thing amiſs in her Fore-ſail?—A. I can't ſay I did.

Q. Did your Lordſhip obſerve whether the Cæſar had any After-

ſail

full up?—A. I can't ſay I took Notice of it particularly, one Way or other.

Q. How was the Cæſar ſteering when your Lordſhip firſt obſerved her?—A. Off the Wind.

Q. How many Points does your Lordſhip apprehend?—A. I can't ſay exactly, but ſhould imagine with the Wind a-beam, nearly.

Q. If the Cæſar had been hauled to the Wind, did your Lordſhip ſee any Impediment that could impede her from cloſing with the Enemy, although ſhe might not have been able to have gone through their Line?—A. I certainly did not ſee any ſuch Impediment.

Q. While the Cæſar was paſſing the Leviathan, what appeared to be her Condition, with reſpect to any Damage ſhe might have received?—A. I was not ſtruck with her being particularly damaged, but the Leviathan's Wheel having been ſhot ſome Time before, I was leſs attentive to the Ships around me than at any other Period.

Q. While the Cæſar continued in your Lordſhip's View, did you ſee her haul to the Wind?—A. I did not.

Q. Was your Lordſhip, at any Time, while the Fleet remained upon the larboard Tack, obliged to back the Maintop-ſail of the Leviathan for Want of more Sail being carried in the Van?—A. I recollect, perfectly, having back'd the Maintop-ſail, in Conſequence of the Majeſtic having back'd into my Hawze.

Q. Does your Lordſhip recollect whether it was before or after the Signal was made for the Cæſar to make more Sail?—A. It was after the Signal was made to make more Sail.

Q. Did you tack or wear in the Leviathan, in Conſequence of the Signal to tack in Succeſſion, or did you tack or wear in Conformity to the Admiral's Example?—A. I tack'd the Moment I was informed the Queen Charlotte was in Stays, without attending to what the Ship a-head of me did on that Subject.

Q. Your Lordſhip has ſaid that the Wheel of the Leviathan was ſhot away; the Leviathan being in that diſabled State, what Part of the Enemy's Line were you able to fetch?—A. I fetched to windward of the Second Ship from the Enemy's Rear, but I think it right to explain that I did not exactly in the Enemy's Line, but to leeward of it.

The Court aſked,

Q. Do you think that Captain Molloy did uſe his utmoſt Endeavours to paſs through the Enemy's Line, on the 29th of May?—A. It did not appear to me that he did ſo.

Captain William Hope, of his Majeſty's Ship Venerable, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Was you Captain of the Bellerophon on the 29th of May laſt?—A. I was.

Q. In what Part of the Britiſh Line was the Bellerophon ſtationed that Day?—A. The next Ship a-ſtern of the Queen Charlotte.

Q. Did you ſee the Cæſar after ſhe wore from the larboard Tack, in Conſequence of the Signal to tack in Succeſſion?—A. I did.

Q. How was ſhe ſituated when you firſt ſaw her?—A. Steering along to windward of the Britiſh Line, a-breaſt of the Leviathan.

Q. Did you think ſhe was ſteering her Courſe parallel with the Britiſh Line?—A. She appeared to me to be ſteering rather to leeward of it, for we remarked on board the Bellerophon, that ſomething very material muſt have happened to that Ship, as we imagined ſhe was coming down to ſpeak the Queen Charlotte.

Q. What Sail had the Cæſar ſet when you thus ſaw her?—A. Her three Top-ſails and Fore-ſails, to the beſt of my Recollection.

Q. Did you obſerve how many Reefs ſhe had in her Top-ſails?—A. I thought ſhe had Three.

Q. Did you take Notice if the Cæſar had any After-ſail ſet?—A. She had none; I think rather her Mizen Stay-ſail was in the Brails.

Q. Were the Sails of the Cæſar, and particularly the Fore-ſail, in a diſordered State, or were they completely ſet?—A. I obſerved a few Shot-holes through the Sails, but they all appeared otherwiſe perfectly trimmed.

Q. Was the Weather ſuch as the Cæſar might have carried more Sail upon a Wind, than ſhe had ſet?—A. It was.

Q. If, with the Sail the Cæſar had then ſet, ſhe had been hauled to the Wind, when you firſt ſaw her, as you have before deſcribed, would ſhe, in your Judgment, have fetched the Enemy's Line?—A. Moſt undoubtedly.

Q. Did you obſerve any Thing that could impede the Cæſar from cloſing with the Enemy, had it been attempted, although ſhe might not have been able to have gone through their Line?—A. I did not.

Q. Did the Bellerophon follow the Queen Charlotte through the Line?—A. We did not go through at the ſame Opening with the Queen Charlotte, but we went through two Ships aſtern of where the Queen Charlotte did.

The Court aſked,

Q. You have ſaid the Cæſar's Sails appeared to be well trimmed, did you mean to ſay they were well trimmed for the Courſe ſhe was ſteering, or for hauling to the Wind?—A. Her Weather Braces appeared to me to be rounded in.

Captain Molloy did not aſk the Witneſs any Queſtions, and he withdrew.

Captain Edward Thornborough, of the Robuſt, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Captain of the Latona on the 29th of May, and was the Latona then with the Britiſh Fleet?—A. Yes.

Q. In what Situation, with reſpect to the Britiſh Fleet, was the Latona, while the Britiſh Fleet continued on the larboard Tack?—A. To leeward of the Britiſh Line, towards the Van, nearly abreaſt of the Orion, in general, that Morning.

Q. What was your Diſtance to leeward of the Britiſh Line?—A. About three Quarters of a Mile.

Q. Did

Q. Did you see the Cæsar wear from the larboard Tack, in Conſequence of the Signal to tack in Succeſſion?—A. I did.

Q. Did you ſee the Cæsar haul to the Wind, on the ſtarboard Tack, after wearing?—A. I did, when ſhe paſſed through the Line.

Q. Do you know under the Stern of what Ship ſhe did paſs through the Britiſh Line?—A. I think about the Orion, I am not poſitive.

Q. Being to leeward of the Engliſh Van, did you take Notice of the Diſtance of the ſeveral Ships from each other?—A. The Ships were at different Diſtances; they were not at all at the ſame Diſtance; ſome were cloſer than others.

Q. Were they ſo ſituated, that if the Cæsar had been hauled to the Wind, immediately on wearing, there was an Opening for her to go through the Britiſh Line, before ſhe got the Length of the Orion?—A. Yes; I think there was; there was certainly a proper Place for her.

Captain Molloy did not aſk the Witneſs any Queſtions, and he withdrew.

Sir Roger Curtis ſaid, that he ſhould not produce any more Evidences to the 29th May, but ſhould proceed to the Firſt of June.

Lieutenant Whitby called in again.

Sir Roger Curtis aſked,

Q. Were you Firſt Lieutenant of the Cæsar on the Firſt of June laſt?—A. I was.

Q. Do you remember the Britiſh Fleet bearing down to engage the Enemy, the Enemy being on the larboard Tack?—A. Yes.

Q. Do you remember the Cæsar's backing her Maintop-ſail, and beginning to engage?—A. Yes; I do.

Q. Was it afterwards diſcovered that the Rudder of the Cæsar could not be moved?—A. Yes, it was.

Q. How long was it after you brought to, that it was diſcovered the Rudder could not be moved?—A. I don't recollect the exact Time; it was not long, I believe.

Q. How long after the Maintop-ſail was backed, was it diſcovered the Rudder could not be moved?—A. It was not long; but the exact Time I do not know.

Q. How long was it, from the Time it was diſcovered, that the Rudder could not be moved, until the Obſtacle was diſcovered and removed?—A. It appeared to me a long While, but the exact Time I cannot ſtate; I had no Watch about me.

Q. How were the Sails of the Ship during this Time, and how was the Ship's Head with reſpect to the Wind?—A. Very ſome Time after, the Rudder was chocked, rounded in the Weather Fore and Fore-top-ſail Braces, to prevent the Ship paying off, as ſhe was unmanageable.

Q. Was the Maintop-ſail then remaining aback?—A. I believe the Main-yard was nearly ſquare.

Q. Was the Cæsar's Signal for cloſer Action made by the Royal Sovereign or Bellerophon, before you knew the Rudder could not be moved?—A. I did not ſee any Signals.

Q. Was

Q. Was it made while the Obſtruction did remain?—A. I did not ſee any Signals.

Q. What was the Obſtruction to the Movement of the Rudder?—A. I did not ſee the Obſtruction; it was reported by the Officer who went down.

Q. During the Time the Rudder of the Cæſar could not be moved, did the Cæſar ceaſe firing upon the Enemy?—A. We did not ceaſe firing, and we were receiving a very heavy Cannonade from the Enemy the whole Time.

Q. While the Obſtruction laſted, with the Main-yard nearly ſquare, and the Fore-yard rounded in, did the Cæſar drop aſtern thereby, and become at a greater Diſtance from her Opponent?—A. Our Diſtance certainly was increaſed from the Enemy while the Rudder was choaked.

Q. When the Rudder was freed, how did the Cæſar proceed for cloſing with her Opponent?—A. Immediately it was reported clear, Capt. Molloy exclaimed, Thank God! put the Helm hard up, and fill the Foretop-ſail. I let go the Weather Fore and Foretop-ſail Braces myſelf, jumped upon the Bits, and the Captain and myſelf aſſiſted in getting the Sails full, and the Yards round.

Q. What Sail did you ſet for arriving up with the Enemy?—A. We ſet the Jib, the Foretop-maſt Stay-ſail, and hauled the Maintop-maſt Stay-ſail Sheet aft, the Maintop-ſail was filled at the Time; we filled the Foretop-ſail; we then ran down upon the Enemy, upon the Van Ship's Quarter, and was engaged with her, and the ſecond Ship of the Van, till we beat them out of the Line.

The Court aſked,

Q. How long was you after ſetting your Sail before you cloſed with the Enemy?—A. It appeared to me to be but a ſhort Time.

Q. Did you obſerve any other Ship ſite at the two Ships you have ſtated to have beaten out of the Line, at the Time you was clearing your Rudder?—A. No; I did not.

Q. Did you make any Signal of Inability at the Time the Rudder was choaked?—A. No.

Q. Do you recollect what Poſition the Bellerophon was in at that Time, and if ſhe was engaged at that Time?—A. No, I did not ſee her.

Q. Was any Attempt made to break through the Enemy's Line to engage them to leeward, agreeable to a Signal made for that Purpoſe?—A. We engaged them to windward.

Q. Did it appear to you practicable to have gone through the Enemy's Line, and engage according to Signal?—A. It might have been done; but the Enemy kept edging away the whole Time, and we after them.

Q. Did they increaſe their Diſtance by edging away?—A. No.

Captain Hope, of the Bellerophon, called in again.

Sir Roger Curtis aſked,

Q. Were you Captain of the Bellerophon on the Firſt of June laſt?—A. I was.

Q. Had

Q. Had the Britiſh Fleet the Weather Gage of the Enemy that Day?—A. They had.

Q. Upon what Tack did the two Fleets engage?—A. Upon the larboard Tack.

Q. Did Admiral Graves make the Cæſar's Signal to make more Sail, when the Britiſh Fleet was ſteering down to engage the Enemy on the Firſt of June?—A. He did.

Q. Did ſhe obey that Signal, and what Increaſe of Sail did ſhe make in Conſequence of it?—A. I was attending to the ſteering of the Bellerophon down to her Opponent, and did not take Notice of the Cæſar's Conduct at that Time.

Q. Did the Bellerophon repeat that Signal of the Royal Sovereign to the Cæſar?—A. No; I think not.

Q. Do you know if the Cæſar acknowledged that Signal?—A. I do not.

Q. Did ſhe go into her Station in Conſequence of that Signal?—A. She did not.

Q. When the Signal to make more Sail was made to the Cæſar, how was ſhe ſituated with reſpect to her Station?—A. She was upon the Bellerophon's larboard Quarter, and a good way aſtern, with all ſo much ſo, that we could not ſee her from the larboard Gangway, the Admiral was obliged to go on the Poop to ſee her.

Q. Was the Cæſar's Station to lead the Bellerophon that Day in the Order of Battle?—A. It was.

Q. Did you make any Obſervations on the Conduct of the Cæſar previous to Admiral Graves making her Signal to make more Sail?—A. I took Notice that ſhe was not in her Station a-head of us going down.

Q. Did you ever ſee the Cæſar in her Station on the Firſt of June, either in ſteering down to engage the Enemy, or during the whole of the Action?—A. Never once.

Q. During the whole of the Action did you ſee the Cæſar, at any one Time, cloſely engaged with any Ship of the Enemy?—A. Never.

Q. Did you obſerve the Cæſar back her Maintop-ſail, and begin to engage?—A. I did.

Q. Was ſhe then in her Station in the Line?—A. No; ſhe was not.

Q. In what Situation, with reſpect to her Opponent, did the Cæſar back her Maintop-ſail to engage her?—A. She was never abreaſt of her Opponent at all; but upon the Bellerophon's Weather Beam, and conſiderable further, in my Idea, to windward of us than we were of the Ship we engaged.

Q. Did Captain Molloy, by backing his Maintop-ſail in that Situation, and beginning to engage, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon, both which it was his Duty to have done?—A. Moſt certainly not.

Q. When you obſerved the Cæſar to have backed her Maintop-ſail, in the Situation you have ſtated, was her ſignal made from the Bellerophon for her to get into cloſer Action?—A. Not immediately.

Q. Was

Q. Was it afterwards made?—A. It was.

Q. Was it anſwered by the Cæſar?—A. I cannot ſay that it was not.

Q. Which Ship, in Number, from the Enemy's Van, did the Bellerophon engage?—A. The Second.

Capt. Molloy's Report of his Proceedings on the Firſt of June, was here read, by the Deſire of Sir Roger Curtis.

Q. Did you obſerve your Opponent, the ſecond Ship, cloſe to the Enemy's Van Ship, and both theſe Ships keep up a heavy Fire on the Cæſar?—A. The two Van Ships appeared to preſerve the ſame Diſtance from each other during the whole of the Action, and it was not poſſible for a Shot to come from the ſecond Ship that would ſtrike the Cæſar, without going through or over the Bellerophon.

Q. Did you obſerve the Cæſar fill, after ſhe had been lying to?—A. I did.

Q. Did ſhe then go cloſe along-ſide the Van Ship of the Enemy, and keep a heavy Fire on her, until that Ship bore away before the Wind?—A. She was never cloſe along-ſide the Van Ship of the Enemy at all, for ſhe brought to again on the Bellerophon's Beam.

Q. Did the Cæſar back down cloſe on the ſecond Ship of the Enemy, your Opponent?—A. She never could get near the Bellerophon's Opponent, without going between us, which ſhe never did.

Q. When the Cæſar filled, after lying to, was any of the Van Ships of the Enemy acceſſible to the Cæſar?—A. I ſaw nothing to prevent her bringing the Van Ship to Action.

Q. Did you make the Cæſar's Signal for cloſer Action, after Admiral Paſley was carried off the Deck, in Conſequence of his Wounds?—A. I did; the Admiral had directed me to take Care that his Flag was properly ſupported, and I thought one of the moſt effectual Ways of doing ſo, was to endeavour to get his Second a-head, to do his Duty.

Q. Was it after the Cæſar had filled, that you made this Signal?—A. It was.

Q. What was then the Situation of the Cæſar, with reſpect to the Bellerophon, and the Van Ship of the Enemy, her Opponent?—A. The Cæſar was upon the Bellerophon's Beam, and the Van Ship of the Enemy upon our ſtarboard Bow.

Q. Did the Cæſar anſwer that Signal?—A. I did not obſerve, nor was it reported to me ſhe did.

Q. Did ſhe obey the Signal?—No, ſhe did not.

Q. Did you make the Cæſar's Signal to chaſe towards the Cloſe of the Action?—A. I did.

Q. Was it after the Cæſar had filled?—A. It was.

Q. What was the Situation of the Cæſar, when you made her Signal to chaſe, with reſpect to the Bellerophon?—A. Upon her Weather-beam, as before.

Q. What particular Object had you in View by making the Cæſar's Signal to chaſe?—A. I obſerved the Van Ship of the Enemy hoiſting her Jib, and ſhivering her Mizen-top-ſail; I therefore concluded that when

ſhe wanted to be off, and therefore directed the Cæſar to follow her, as ſhe was her Opponent in the Line.

Q. Did the Cæſar either anſwer or obey the Signal to chaſe?—A. I cannot ſay whether it was anſwered or not, but it was not obeyed.

Q. Was the Signal of Inability made?—A. Not that I ſaw, nor was it reported to me.

Q. Having made the Cæſar's Signal to chaſe, you muſt have taken Notice of her, did ſhe appear to you in a Condition capable of obeying the Signal?—A. Perfectly ſo, excepting a few Shot-holes in her Sails, I ſaw nothing.

Q. Did you make the Cæſar's Signal to come to the Wind upon the ſtarboard Tack, after you made her Signal to chaſe?—A. I did.

Q. What was your Motive for making that Signal?—A. By this Time the Van Ship of the Enemy had hauled her Wind upon the ſtarboard Tack, and her Second, our Opponent, was following, the Helm of the Bellerophon was put a-hard to Port, and wore after her; as I was ſtanding upon the Poop, conning the Ship down ſo as to lay our Opponent athwart Hawſe, I was ſurpriſed to ſee the Cæſar keeping large, with the Wind on the larboard Quarter, ſteering for the Ground that the Van Ships of the Enemy had left; upon which I directed the Signal to be made to ſhew more pointedly that it was the Van Ship of the Enemy that he was directed to follow, and that Signal, with the Signal for cloſe Battle flew 'till the Maintop-maſt was ſhot away, and the Cæſar's Signal fell into the Water.

Q. Did the Cæſar come upon a Wind upon the ſtarboard Tack in conſequence of the Signal?—A. I rather think not, but I was ſo much engaged with the Ship, which was perfectly a Wreck, that I did not obſerve.

The Court adjourned till 9 o'Clock To-morrow Morning.

Friday 1ſt. May, 9 o'Clock, the Court met according to Adjournment.

Captain William Hope called again.

Sir Roger Curtis aſked,

Q. Did you ſee the Cæſar afterwards?—A. I did.

Q. What was then her Situation?—A. She was laying to on the ſtarboard Tack, her Head from the Enemy.

Q. During the Action, were ever the two Van Ships of the Enemy firing upon the Bellerophon at the ſame Time?—A. They were, during the greater Part of the Action.

Q. To what did you attribute the Van Ship of the Enemy, being at Liberty to fire upon the Bellerophon?—A. From not being cloſely engaged by the Cæſar.

Q. At what Hour, by the Bellerophon's Time, did you commence your Fire upon your Opponent?—A. About ½ after Nine, A. M.

Q. Was it at that Time the Cæſar back'd her Main-top-ſail, and commenced her Fire?—A. Yes, ſhe hauled up as we did.

Q. At what Time did you make the Cæſar's Signal to chaſe?—A. About 50 Minutes after 10 o'Clock, A. M.

Q. At what Time did your Opponent bear away?—A. About ten Minutes paſt 11 o'Clock.

Q. Did the Captain of Marines, on board the Bellerophon, make any Repreſentation to you relative to any Uneaſineſs of the Marines upon the Poop from the Situation of the Cæſar?—A. It was reported to me from the Poop during the Action, but by whom I did not immediately take Notice, that the Cæſar's Shot were coming over us: I then went to the Gang-way, and it appeared as if her Grape-ſhot were lighting to windward of us; but the Captain of the Marines, after the Action was over, acquainted me, officially, of the Complaint his Marines had made to him during the Action.

The Court aſked,

Q. What was the Complaint?—A. There were ſeveral of the Marines had expreſſed great Uneaſineſs to him, that not only having the two Van Ships of the Enemy to engage, they were alſo to receive the Fire from the Cæſar.

Rear Admiral Sir Thomas Paſley, Bart. called in and ſworn.

Sir Roger Curtis aſked,

Q. Was your Flag on board the Bellerophon on the firſt of June laſt?—A. It was.

Q. Had the Britiſh Fleet the Weather Gage of the Enemy that Day?—A. They had.

Q. Upon what Tack did the two Fleets engage?—A. On the larboard Tack.

Q. In what Part of the Britiſh Line was the Bellerophon ſtationed?—A. The ſecond Ship from the Van.

Q. What was the Ship ſtationed next a-head of you?—A. The Cæſar.

Q. Did Admiral Graves make the Cæſar's Signal to make more Sail when the Britiſh Fleet was ſteering down to engage the Enemy on that Day?—A. He did.

Q. Did the Cæſar anſwer the Signal?—A. To the beſt of my Recollection ſhe made ſome Alteration of Sail on that Account, I think ſhe hoiſted Part of her Maintop maſt Stay-ſail, and very ſoon hauled it down again.

Q. Did ſhe go into her Station in Obedience to that Signal?—A. She did not.

Q. When the Signal to make more Sail was made to the Cæſar, how was ſhe ſituated with reſpect to her Station?—A. She was a conſiderable Way to windward on the Bellerophon's Weather Quarter.

Q. Did you make any Obſervations upon the Conduct of the Cæſar, previous to Admiral Graves making her Signal to make more Sail?—A. I only ſaid, on the Quarter Deck, that I thought ſhe was extremely tardy in coming into her Station: I made no other Obſervation at that Time.

Q. Was the Cæſar ever in her Station, either in ſteering down to engage, or during the Action, before you was carried off the Deck in conſequence of your being wounded?—A. Certainly never.

Q. Did

Q. Did you ſee the Cæſar back her Maintop-ſail, and commence her Fire?—A. I did.

Q. In what Situation, with reſpect to her Opponent, did the Cæſar back her Maintop-ſail, and commence her Fire?—A. When the Bellerophon brought to, to engage the ſecond Ship of the Enemy's Line, her Opponent, the Cæſar brought to at the ſame Time to windward.

Q. In what Situation to windward with reſpect to the Bellerophon?—A. I do not think either before or during the Action ſhe was ever before the Bellerophon's Beam.

Q. What Diſtance to windward was ſhe on the Bellerophon's Beam in your Eſtimation?—A. She was further from the Bellerophon to windward, than the Bellerophon was from the Enemy to leeward.

Q. Did Captain Molloy, by bringing to in that Situation, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon, both which it was his Duty to have done?—A. He certainly did not.

Q. When you obſerved the Cæſar to have brought to in the Situation you have ſtated, did you make her Signal for cloſer Action?—A. Soon after I did.

Q. Was it either anſwered or obeyed?—A. It was not obeyed, and I ſaw no Anſwer made.

Q. Did ſhe make the Signal of Inability to obey it?—A. She did not.

Q. Did you at any Time afterwards make the ſame Signal to the Cæſar to obey it?—A. I did a ſecond Time.

Q. Was it either anſwered or obeyed?—A. Neither.

Q. Or Signal of Inability?—A. Neither.

Q. What Ship in Number from the Enemy's Van did the Bellerophon engage?—A. She engaged the ſecond Ship from the Van, but generally received the Fire likewiſe from the firſt.

Captain Molloy's Report of his Proceedings on the 1ſt. of June was here read by the Deſire of Sir Roger Curtis.

Q. Did you obſerve the Ship which you engaged cloſe with the Van Ship of the Enemy, and both theſe Ships keep up a heavy Fire on the Cæſar?—A. On the contrary I think it was impoſſible for any Shot from the ſecond Ship of the Enemy's Line to have fired at the Cæſar, unleſs over the Bellerophon, and in my Opinion neither the Cæſar nor the Van Ship of the Enemy, could poſſibly Fire to do any Execution upon each other, without both of them having luffed up for that Purpoſe.

Q. Did you at any Time obſerve the two Van Ships of the Enemy's Line engage the Cæſar?—A. Never further than I have ſaid to the former Queſtion.

Q. At what Time did you commence the Bellerophon's Fire on your Opponent?—A. By our Time 15 Minutes paſt 9 o'Clock.

Q. Did Major Smith, ſerving as Captain of Marines on board the Bellerophon, call your Attention to the Poop during the Action to make Obſervations to you of the Situation of the Cæſar?—A. He did.

Q. Was it at the Commencement of the Action?—Juſt before the Commencement, and in the Action, he did it twice.

Q. Be pleaſed to relate theſe Obſervations to the Court?—A. Major Smith ſaid that he wiſhed me to view the Situation of the Cæſar from the Poop, as I was a better Judge of Diſtances than him.

Q. Did any farther Remarks paſs between the Major and you?—A. There were, upon taking a View of the Cæſar's Situation the laſt Time that I went up on the Poop; I ſaid, I am now clearly convinced that we can have no Expectations of ſupport from the Cæſar, we muſt therefore do their Buſineſs ourſelves, as well as we can: theſe were the Words, as near as I can recollect.

The Court aſked,

Q. What Ship followed the Charlotte and the Bellerophon through the Enemy's Line on the 29th?—A. I know of no other Ship that went through the Line but the Charlotte and myſelf, I underſtand the Orion did, but I did not ſee her.

Q. What were the Ships you ſaw neareſt to you after you had paſſed the Line?—A. The Orion was the neareſt Ship to us, the Charlotte and Orion.

Sir Roger Curtis aſked,

Q. Did you ſee the Leviathan after you paſſed through the Line?—A. I was under the Neceſſity of hauling up my Mainſail, and backing my Topſail, to prevent my running on board the Leviathan, who had paſſed a-head of me, as I was puſhing through the Enemy's Line, with her Wheel ſhot away.

The Court aſked,

Q. When the Cæſar was to windward on the Firſt of June, as you have deſcribed, by her ſteering, or other Motions, was you led to ſuppoſe, that any Thing had happened to her Rudder, that could indicate a Difficulty in ſteering.

A. There was not; and the Reaſon of my being ſo poſitive as to their Situation, was, that I never could ſee her until I went before the Hammocks on the Quarter Deck, which I did twenty Times during the Action.

Mr. John Urquhart, Maſter of His Majeſty's Ship Queen, called in and ſworn.

Sir Roger Curtis aſked,

Q. Were you Maſter of the Bellerophon on the Firſt of June laſt, and where were you ſtationed?—A. I was Maſter of the Bellerophon, and ſtationed on the Quarter Deck.

Q. Did Admiral Graves make the Cæſar's Signal to make more Sail when the Britiſh Fleet was ſteering down to engage the Enemy on the Firſt of June laſt?—A. I did not ſee the Signal.

Q. Did you make any Obſervations reſpecting the Conduct of the Cæſar previous to your hearing it reported that her Signal was made, to make more Sail.—A. I did.

Q. What were they?—A. I obſerved when the Fleet were bearing down to Battle, that the Cæſar was a conſiderable Way on the Bellerophon's larboard Quarter, and apparently coming down under cloſe reef Top-ſails?—Was the Cæſar ever in her Station either in ſteering down to engage, or during the whole of the Action?—A. She was not.

Q. During the whole of the Action did you at any Time ſee the

Cæſar

Cæſar cloſely engaged with any Ship of the Enemy?—A. At no one Time.

Q. Did you ſee the Cæſar back her Maintop ſail, and commence her Fire? A. The Cæſar brought to, to engage very ſoon after the Bellerophon, and ſeemed to be about the ſame Diſtance to windward of the Bellerophon, that the Bellerophon was diſtant from the Enemy.

Q. Was ſhe upon the Bellerophon's Beam, or before it?—A. Nearly upon the Beam in general.

The Court aſked,

Q. Was the Bellerophon laying to?—A. In the Courſe of the Action we ſometimes backed the Mizentop-ſail, and ſometimes ſhivered the Maintop-ſail; Ships in that Situation will ſometimes fall off, and come to; I cannot poſitively ſay, ſhe had loſt her Way, ſhe was chiefly under ſteerage Way.

Sir Roger Curtis aſked,

Q. Did you ſome Times back your Mizentop-ſail, and ſome Times ſhiver your Maintop ſail, for the Purpoſe of keeping a-breaſt of your Opponent?—A. Not altogether for the Purpoſe of keeping a-breaſt of our Opponent; we found ourſelves, ſometimes conſiderably annoyed by the raking Shot of the Van Ship of the Enemy's Line, which obliged us to drop a-ſtern and a-breaſt of our Opponent, or upon her Quarter.

Q. Did you receive many Shot from the Van Ship of the Enemy?—A. At Times it appeared we did, but the Shot were going in all Directions, it was impoſſible to ſay what Ship they came from.

Q. Did Captain Molloy, by bringing to in the Situation you have deſcribed, take a proper Station for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon?—A. It did not appear to me that the Cæſar was the leaſt Support to the Bellerophon.

Q. Which Ship, in Number from the Enemy's Van, did the Bellerophon engage?—A. The Bellerophon's Fire was not altogether confined to one Ship, ſometimes the Second in the Enemy's Line, and ſometimes the Third, but chiefly the Second.

Captain Molloy's Report of his Proceedings on the 1ſt of June, was here read, by Deſire of Sir Roger Curtis.

Q. Did you obſerve the ſecond Ship of the Enemy, your particular Opponent, cloſe to the Van Ship, and both theſe Ships keep a heavy Fire upon the Cæſar?—A. The two Ships in the Enemy's Van were very cloſe at Times, but it did not appear to me that their Force was directed towards the Cæſar more than the Bellerophon, not ſo much in general.

Q. Did you obſerve the Cæſar fill, after ſhe had been lying by?—A. The Cæſar drew a little a-head at one Time, but I cannot ſay as to the Time ſhe filled, ſhe being ſeldom before the Bellerophon's Beam.

The Court aſked,

Q. Did ſhe draw a-head in Conſequence of her filling?—A. I did not obſerve her fill.

Sir Roger Curtis aſked,

Q. Did you ſee the Cæſar while to windward of the Bellerophon with

Saturday Morning, Nine o'Clock, the Court met according to Adjournment.

Major Smith called in again.

Sir Roger Curtis aſked,

Q. Was there any farther Intercourſe between Admiral Paſley and you on that Subject?—A. Admiral Paſley expreſſed his Aſtoniſhment at ſeeing the Cæſar at ſo conſiderable a Diſtance off, but this was a conſiderable Time before the Cæſar began to fire.

Q. Did any Thing farther paſs between the Admiral and you upon commencing her Fire?—A. Not juſt then.

Q. Relate what happened, and how long afterwards?—A. After the Bellerophon had began the Action for a conſiderable Time, Admiral Paſley again deſired to know what was become of the Cæſar, calling me by Name; I anſwered him by ſaying that ſhe was ſtill a great Way to windward, but begged he would take the Trouble of again coming on the Poop, and he would be better able to judge of the Cæſar's Situation, which he did; on coming on the Poop, after having viewed the Cæſar, he ſwore by God, we ſhall get no good of the Cæſar To-day, therefore we muſt do the beſt we can ourſelves.

Q. Do you remember whether the Cæſar was laying to at the Time theſe Obſervations were made?—A. I do not.

Q. During the Action did you at all ſee the Cæſar laying to, to windward of the Bellerophon?—A. I cannot anſwer that Queſtion poſitively whether ſhe was or not.

Q. Do you ſay that from Want of Judgment in the Sails of a Ship not being a Sea-officer?—A. I do.

Part of Captain Molloy's Report was read.

Sir Roger Curtis aſked,

Q. Did you at any Time ſee the Cæſar cloſe along-ſide the Van Ship of the Enemy, and keep a heavy Fire on her until that Ship of the Enemy bore away before the Wind?—A. I did not.

Q. Did you ſee the Cæſar cloſe down on the ſecond Ship of the Enemy, the Bellerophon's Opponent?—A. I did not.

Q. During the Action did you ever obſerve that the two Van Ships of the Enemy were firing upon the Bellerophon at the ſame Time?—A. I did, it was pointed out by the People on the Poop, and I ſaw it myſelf.

Q. To what did you attribute the head-moſt Ship of the Enemy being at Liberty to fire upon the Bellerophon?—A. I ſuppoſe from not having one to oppoſe her.

Q. Were you upon the Poop of the Bellerophon during the whole of the Action?—A. I was, unleſs for two Minutes to help Admiral Paſley up when he met with his Misfortune on the Quarter-deck.

Q. During the whole of the Action did you at any Time ſee the Cæſar cloſely engaged with any Ship of the Enemy?—A. I did not while the French Line continued.

Q. Did you ſee the Cæſar cloſely engaged with any Ship of the Enemy, at any Time on the firſt of June?—A. I did not.

Q. Did you make any Repreſentation to the Captain of the Bellerophon

rophon relative to the Uneaſineſs of the Marines on the Poop, from the Situation of the Cæſar?—A. I did not, 'till after the Action was over.

Q. Did the Marines on the Poop make any Repreſentation to you on that Occaſion?—A. One of them did.

Q. What was the Repreſentation?—A. He thought it exceedingly hard that we ſhould be fired into by the Cæſar, when there were two of the Enemy's Ships upon us at that Time.

Q. What did you ſay to him in Reply?—A. I deſired him to hold his Tongue, and mind his own Duty, that neither him nor I could be a Judge for what Purpoſe the Cæſar could be to windward, and added, that I ſuppoſed ſhe would be out of our Way very ſoon.

Q. Do you know that the Cæſar did fire into the Bellerophon?—A. I do not know that any Shot ſtruck the Bellerophon from the Cæſar to my own Knowledge.

Q. Do you know that any Shot from the Cæſar paſſed over the Bellerophon?—A. From the Cæſar's Situation many muſt have gone over her, if they did not ſtrike her.

Q. Did you ſee any Shot from the Cæſar light upon the Water to windward of the Bellerophon?—A. I really cannot ſay which were the Cæſar's ſhot, as there were ſo many flying in every Direction.

Lord Hugh Seymour called in again.

Sir Roger Curtis aſked,

Q. Was your Lordſhip Captain of the Leviathan on the firſt of June laſt?—A. I had that Honour.

Q. In what Part of the Britiſh Line was the Leviathan ſtationed that Day?—A. The third Ship from the Van, the Ship next the Bellerophon.

Q. Did Admiral Graves make the Cæſar's Signal to make more Sail when the Britiſh Fleet was ſteering down to engage the Enemy on the firſt of June?—A. I believe he did: I find that Signal in the Minutes of the Leviathan on that Day.

Q. Did your Lordſhip obſerve it at the Time?—A. I did ſee it.

Q. Can you recollect what Increaſe of Sail the Cæſar made in conſequence of that Signal?—A. I cannot ſay exactly.

Q. Did ſhe go into her Station in Obedience to that Signal?—A. She never was ſo advanced in going down as the Bellerophon, I mean judging from the Point which I occupied in the Leviathan.

Q. Did your Lordſhip ever ſee the Cæſar in her Station, either in ſteering down to engage, or during the whole of the Action?—A. She did not appear to me to be in her Station.

Q. During the whole of the Action, did your Lordſhip at any Time ſee the Cæſar cloſely engage with any Ship of the Enemy?—A. No, I did not.

Q. Did your Lordſhip obſerve the Cæſar bring to to engage?—A. I cannot ſay I ſaw her bring to; I ſaw her after ſhe was brought to.

Q. Did your Lordſhip commence your Fire with your Opponent

about the ſame Time the Bellerophon did with her Opponent?—A. I ſhould fancy about the ſame Time.

Q. Can your Lordſhip recollect how long after you commenced your Fire it was that you ſaw the Cæſar brought to for engaging?—A. No, I cannot.

Q. When your Lordſhip ſaw the Cæſar brought to for engaging, what was her Situation in reſpect to her Opponent?—A. To windward of the Line, that the Bellerophon and myſelf formed, and at a very conſiderable Diſtance as it appeared to me, our Ships being parallel to thoſe of the Enemy.

Q. Did Captain Molloy, by bringing to to engage in that Situation, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon, both which it was his Duty to have done?—A. It was not the Poſition that I would have taken for that Purpoſe, for it appeared to me, that the Bellerophon ſuffered conſiderably from the Diſtance the Cæſar was from the Enemy's Van Ship.

Q. Which Ship in Number from the Enemy's Van did the Leviathan engage?—A. She engaged the third Ship, the America, and hardly fired at any other Ship, during the whole of that Day.

Q. Was that Ship at any Time engaged with the Bellerophon?—A. She may have fired ſome chance Shot at the Bellerophon, but I fancy the Bellerophon did not imagine themſelves to have been engaged by that Ship.

Part of Captain Molloy's Report was read.

Q. Did your Lordſhip obſerve the ſecond Ship of the Enemy's Van cloſe to the firſt, and both theſe Ships keep up a heavy Fire on the Cæſar?—A. They cloſed each other in the Courſe of the Action at different Times, but their Fire appeared to me to be levelled principally at the Bellerophon. I do not mean to ſay, that they did not fire at the Cæſar; what I mean by cloſing is, that we backed and filled during the Action, and the Enemy appeared to me to do the ſame.

Q. Did your Lordſhip at any Time obſerve the two Van Ships of the Enemy engage with the Cæſar?—A. Never.

Q. Did your Lordſhip obſerve the Cæſar fill after ſhe had been lying by?—A. I ſaw her when filled.

Q. Did ſhe go cloſe along-ſide the Van Ship of the Enemy, and keep up a heavy Fire on her, until that Ship bore away before the Wind?—A. I have ſaid before, that I never ſaw her cloſe with the Enemy.

Q. Was the Leviathan ſo ſituated during the Action, that if the Cæſar had gone into cloſe Action with any Ship of the Enemy, it would have been obſerved by your Lordſhip?—A. The Leviathan having been in the Wake of the Bellerophon, and cloſe to her, it was not poſſible for the Cæſar to have got into the ſame Line, without my remarking it.

Q. After the Cæſar filled, was either of the Van Ships of the Enemy ſo ſituated, that the Cæſar might have brought her to cloſe

Action

Action in your Lordſhip's Judgment?—A. It appeared to me, at the Time, that ſhe might.

Q. How did the Cæſar proceed after your Lordſhip obſerved her to have filled?—A. I did not take Notice of the Cæſar's coming down until a conſiderable Time afterwards, when I ſaw her wearing.

Q. Did your Lordſhip obſerve how ſhe proceeded afterwards?—A. I ſaw her nearly before the Wind, as well as I can deſcribe her Poſition; I never ſaw her haul to the Wind, either one Way or another; the two headmoſt Ships of the Enemy had then borne up; they paſſed to leeward and aſtern of the third Ship with which I was engaged, and brought to on the Leviathan's ſtarboard Quarter; I have ſtated that, becauſe it called my Attention to the Cæſar, and will deſcribe the Time I ſaw her before the Wind.

Q. Was it at the Time when the two Van Ships of the Enemy placed themſelves upon your Lordſhip's ſtarboard Quarter, that you ſaw the Cæſar before the Wind?—A. No, it was not.

Q. Was it before they placed themſelves ſo, that your Lordſhip ſaw the Cæſar before the Wind?—A. Yes, it was, and I ſaw her ſome Time afterwards ſteering into our own Fleet.

Q. Can your Lordſhip, in your Recollection, trace the Movements of the Cæſar, from the Time your Lordſhip ſaw her before the Wind, until you afterwards ſaw her ſteering amongſt our own Ships, as you have before mentioned?—A. I can only ſay, that ſhe did not haul to the Wind to follow thoſe Ships of the Enemy's Van, as the Bellerophon was attempting to do, and which I naturally wiſhed her to have done at the Time.

Q. Did your Lordſhip obſerve, that at the Time you thus ſaw the Cæſar, that ſhe was in ſo diſabled a State, that it might not have been practicable for her to have hauled to the Wind after thoſe Ships?—A. The Appearance of the Cæſar did not juſtify that Opinion.

Q. Upon what Tack were the two Van Ships of the Enemy, when they placed themſelves upon your Lordſhip's ſtarboard Quarter?—A. Upon the ſtarboard Tack.

Q. Did your Lordſhip, at that Moment, take Notice of the Conduct of the Cæſar to any of the Officers of the Leviathan?—A. I joined the Officers in regretting that the Enemy's Ships ſhould have been allowed to have reached that Poſition, which at the Time I could not fail to attribute to the two headmoſt Ships in Queſtion not having been more engaged and followed.

Q. Did that Regret particularly apply to any ſuppoſed Miſconduct on the Part of the Cæſar?—A. It certainly did, in the Mind of every Officer who ſpoke to me on the ſubject, as well as my own.

Q. How did the two French Ships afterwards proceed?—A. They filled, and ſtretched on well to windward of the whole of our Fleet, when they edged away to join their own.

Q. Did your Lordſhip obſerve the Bellerophon to make the Cæſar's Signal to chaſe, when the Van Ships of the Enemy wore?—A. I know that her Signal was made, and I took it for granted it was for that Purpoſe.

Q. Was the Signal alſo made for her to come to the Wind, on the ſtarboard Tack?—A. It was.

Q. Were either of thoſe Signals obeyed?—A. I have ſaid before, I never ſaw her come to the Wind to chaſe, ſhe muſt have hauled up.

Q. Did your Lordſhip, during the Action, ſee the Cæſar's Signal for cloſer Action flying on board the Bellerophon?—A. I did.

The Court aſked,

Q. Under what Sail did the two Van Ships engage?—A. Generally they were under their Foreſails and Topſails, I think ſo, the Maid-yard ſquare.

Q. From your Lordſhip's Situation in the Leviathan, in the Britiſh Line, did it appear to you that Captain Molloy did take a proper Station for coming to cloſe Action with the Enemy on the Firſt of June, prior to, and in Compliance with, the Signals made to him for that Purpoſe; and that he did omit to exert his utmoſt Endeavours for the Defeat of the Enemy on that Day?—A. I have already ſaid, that the Cæſar did not cloſe in the Way that I thought ſhe was capable of; but as the other Part of the Queſtion muſt be anſwered by me, as a Matter of Opinion, I beg to decline doing ſo, as from my Ignorance of the interior Condition of the Cæſar, ſhe may not have been capable of making thoſe Exertions I wiſhed to have ſeen her do.

Captain Molloy did not aſk the Witneſs any Queſtions, and he withdrew.

Mr. James Parke, Maſter of the Sans Pareil, late of the Leviathan, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Maſter of the Leviathan on the Firſt of June laſt?—A. I was.

Q. Where was the Cæſar's appointed Station in the Line, on the Firſt of June?—A. The leading Ship of the Britiſh Fleet.

Q. Did you ever ſee her in her Station, either in ſteering down to engage, or during the whole of the Action?—A. I never conſidered her in her Station, either in ſteering down, or during the Action.

Q. During the whole of the Action, did you at any Time ſee the Cæſar cloſely engaged with any Ship of the Enemy?—A. I did not.

Q. Did you obſerve the Cæſar bring to to engage?—A. I did.

Q. How was ſhe then ſituated with Reſpect to her Opponent, the Van Ship of the Enemy?—A. She appeared to me to be as far to windward of the Bellerophon, as either of the two headmoſt Ships of the Enemy were to leeward of the Bellerophon.

Q. Did Captain Molloy, by bringing to in that Situation, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon?—A. I ſhould ſuppoſe him at too great a Diſtance to effect either.

Q. Which Ship, in Number, from the Enemy's Van, did the Leviathan engage?—A. The third Ship, namely, the America.

Part

Part of Captain Molloy's Report was read.

Q. Did you obſerve the ſecond Ship of the Enemy's Van cloſe to the firſt, and both theſe Ships keep up a heavy Fire on the Cæſar?—A. I did not.

Q. Did you, at any Time, obſerve the two Van Ships of the Enemy engage with the Cæſar?—I did not.

Q. Did you obſerve the Cæſar fill, after ſhe had been laying to?—A. Not until the two Enemy's Van Ships had wore, and gone off.

Q. How did the Cæſar then proceed?—A. She appeared to me to go down with the Wind on the larboard Quarter, pointing to the Weſtward of the weſtermoſt Ships in our own Fleet, which were then to leeward; there were no Enemy's Ships down there then; ſhe brought to after ſhe got down there, as it appeared to me, on the larboard Tack; the Leviathan was at that Time cloſely engaged with the America, which prevented my paying ſo much Attention to the Fleet as I could have wiſhed.

Q. Did the two Van Ships of the Enemy wear, and place themſelves on the Leviathan's ſtarboard Quarter, and annoy you a good Deal from that Situation?—A. They did conſiderably ſo.

Q. Did you at that Time make any Obſervations to your Captain, Lord Hugh Seymour, on the Conduct of the Cæſar?—A. I did.

Q. Relate them to the Court?—A. I obſerved to his Lordſhip, that he had the Cæſar to thank for the Doſe we received from thoſe two Ships; that they had eſcaped in Conſequence of the Cæſar's not going down to, and engaging them cloſe, and that I thought Captain Molloy was certainly killed.

Q. Why did you think Captain Molloy was certainly killed?—A. As I did not conſider the Cæſar did the Duty of a Britiſh Man of War, from the Circumſtance of ſuppoſing the Ship to be in ſome Confuſion, in Conſequence of her Commander falling.

Q. Did you obſerve the Bellerophon make the Cæſar's Signal to chaſe, when the Van Ship of the Enemy wore?—A. I did not ſee the Signal made, as we were then in cloſe Action.

Q. Did you ſee the Cæſar's Signal flying, on board the Bellerophon, for cloſer Action?—A. I did.

Q. Was it made more than once, to your Knowledge?—A. I ſaw it twice.

Q. Did you obſerve the Bellerophon's Topmaſt to go over-board?—A. I did.

Q. Was the Signal for cloſer Action flying till that Time?—A. I ſaw it a few Minutes before that Time.

Captain Molloy did not aſk the Witneſs any Queſtions, and he withdrew.

Captain

Captain John Willett Payne, of his Majeſty's Ship Ruſſel, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Did you command the Ruſſel on the Firſt of June laſt?—A. I did.

Q. In what Part of the Britiſh Line was the Ruſſel ſtationed on that Day?—A. She was the fourth Ship in the Van.

Q. Did you obſerve the Cæſar bring to to engage?—A. I did.

Q. How far was ſhe to windward of the Bellerophon?—A. I cannot ſpeak with Preciſion, as I have been ſeven Months abſent from my Ship, and I have neither Minutes, Memorandums, or Log-Book to refer to, otherwiſe it is there probably minuted down.

Q. Did you take Notice how far to windward of the Enemy's Line was the Bellerophon?—A. The Bellerophon was exactly in a Line ahead with myſelf, and that as near, pretty well, as we could get; the Leviathan was the only Ship between us.

Q. Do you think the Cæſar was as far to windward of the Bellerophon, as the Bellerophon was to her Opponent, at the Time of commencing the Action?—A. The angular Point of View, in which I obſerved the Cæſar, does not enable me to ſpeak accurately to that Queſtion; but the Cæſar was obviouſly much to windward of the Bellerophon.

Q. Did Captain Molloy, by bringing to to engage in that Situation, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon?—A. No Doubt, from what I have already ſaid, the Ship was not ſo placed as to render the ſame Service as if ſhe had been nearer.

Q. When the Cæſar was obſerved to have brought to in that Situation, were any Obſervations thereon made, at the Moment, by any of the Officers of the Ruſſel?—A. I can't ſay exactly, at that Moment, that I at preſent recollect any, though there certainly was, I think, by the Maſter, or ſome other of the People near to me, ſome Sort of Obſervation made, for which I immediately reprimanded them; the Diſtance of Time does not enable me to recollect, with any Preciſion, the particular Words of Diſapprobation that were then uſed.

Q. Was the Tenor of theſe Obſervations expreſſible of Diſapprobation of the Conduct of the Cæſar?—A. They bore that Appearance to me, for which Reaſon I thought it my Duty immediately to repreſs them.

Q. Did you ſee the Cæſar fill after ſhe had been lying to?—A. The firſt Time that I ſaw her fill, after ſhe had brought to to engage, was after the Action, when ſhe came down, and paſſed ahead of us to leeward, and there brought to, with her Head the ſame Way, namely, upon the larboard Tack.

Q. Did you ſee the Cæſar at any Time in her Station, either in bearing down to engage, or during the whole of the Action?—A. With reſpect to bearing down, her Situation was ſo conſtantly varying, that I cannot poſitively ſpeak to that Fact; unqueſtionably the Situation that I have already deſcribed her in, did not appear to me to be her Station, as Leader of the Van of a Britiſh Fleet.

Q. During

Q. During the whole of the Action, did you at any Time ſee the Caſar cloſely engaged with any Ship of the Enemy?—A. I ſaw her no other ways engaged than in the Poſition in which I have already deſcribed her; ſhe might have tacked and filled, but I did not ſee it.

Q. Did you ſee the two Van Ships of the Enemy bear up, and haul upon the ſtarboard Tack?—A. When the whole of the French Line aſtern of me was broken and driven to leeward, the Ship to which I was oppoſed went away, and I then, for the firſt Time, paſſed through the French Line after her; ſhe put before the Wind, and hauling up with the Wind on the other Quarter, the Ruſſel was brought by the Lee, as her Foretop maſt was hanging through the Top, and prevented our trimming our Sail in any other Directions than they were in when we were firſt engaged; we then brought to the Wind upon our former Tack, and to leeward of the remaining three Ships of the French Line. At this Time the America, who was then cloſely engaged with the Leviathan, loſt all her Maſts, and Short-ſtay afterwards; the only then remaining two French Ships bore down upon me, and engaged in paſſing alternately, and hauled to windward upon the other Tack. The Bellerophon at this Time appeared to me to be in the Act of wearing, and coming down in the ſame Direction upon us, when her Maſts went, and the two French Ships made off to windward, and left the America diſmaſted where ſhe was.

Q. Did you ſee the Caſar at this Time?—A. Some where about that Time ſhe continued to lay where ſhe had brought to to engage, and fired, I believe, at thoſe Ships as they went off.

The Court aſked,

Q. Do you think that Captain Molloy did uſe his utmoſt Endeavours to paſs through the Enemy's Line on the 29th of May?—A. When Captain Molloy wore, and paſſed us, being the third Ship in the Van, we were then ourſelves, together with the ſurrounding Ships, warmly engaged; the Smoke ariſing from which, does not enable me to ſpeak to what paſſed in proceeding along the Enemy's Line to leeward; I ſaw her a little Time, and ſhe had not hauled her Wind then.

Q. Did it appear to you that Captain Molloy did take a proper Station for coming to cloſe Action with the Enemy on the Firſt of June, prior to, and in Compliance with, the Signals made to him for that Purpoſe; and did he omit to exert his utmoſt Endeavours for the Defeat of the Enemy on that Occaſion?—A. To the firſt Part I have already delivered my Opinion, that he did not take a Poſition ſo near the Enemy as the other Ships of the Line, and which I ſuppoſe the Diviſional Admiral, who muſt be a better Judge than I can be, thought too far, by continuing his Signal out for cloſer Action. If I was to judge from the Appearance of the Ship alone, there certainly would have been an Appearance of ſome backwardneſs; but the invariable good Opinion that I have always entertained for Captain Molloy made me miſtruſt a little that Appearance, in the Hope that that Appearance might be accounted for.

Q. Had you an Opportunity of obſerving the Defects in the Cæſar's Maſts

Maſts and Yards, during the Time ſhe was paſſing to leeward on the 29th?—A. It certainly gave that Complaint againſt the Ship, the Appearance of her Maſts and Yards being in ſuch Order; and I believe at the Time that that was obſerved to me, I ſaid it was unfair to judge from that Appearance, and that I would anſwer for it, ſhe had ſome Defects that were not viſible; I believe I had Occaſion to obſerve that more than once.

Captain Molloy did not aſk the Witneſs any Queſtion, and he withdrew.

Captain Henry Nichols, now Captain of his Majeſty's Ship Marlborough, called in, and ſworn.

Sir Roger Curtis aſked,

Q. Were you Captain of the Royal Sovereign on the Firſt of June?—A. I was.

Q. In what Part of the Britiſh Line was the Royal Sovereign ſtationed on that Day?—A. Stationed the Sixth Ship; but by changing Places with the Marlborough, became the Fifth Ship.

Q. Did Admiral Graves make the Cæſar's Signal to make more Sail, when the Britiſh Fleet was ſteering down to engage the Enemy on the Firſt of June?—A. He did.

Q. Did the Cæſar go into her Station, in Obedience to that Signal?—A. It was before we came near the Enemy, that the Signal was made to make more Sail; and though I do not recollect what Sail ſhe made, I am convinced in my own Mind that ſhe made ſome, becauſe it was the Wiſh of the Admiral that the Signal ſhould not be hauled in until the Object of the Signal had been in ſome Meaſure complied with.

Q. Did the Cæſar go into her Station, in Conſequence of that Signal?—A. I cannot ſpeak poſitively as to the Cæſar's then making more Sail, ſo as to bring her in a Line with the other Ships.

Q. Did you, at any Time, ſee the Cæſar in her Station; either in ſteering down to engage, or during the whole of the Action?—A. The Cæſar's Signal was made in different Ways, to the beſt of my Recollection three Times; at firſt, when the preparative Signal was made for ſteering down, to and independently engaging the Ships oppoſed in the Enemy's Line, and the preparative Flag hauled down, the Cæſar did not immediately bear up, and her Pendant was thrown out with that particular Signal flying; it was ſoon afterwards made for her to take her Station; and as the Direction, to what ſhe was immediately to do, was thought better than the Signal to take her Station, the Signal to ſteer for and dependently engage was again made, and the Signal to take her Station hauled down, her Pendant being kept flying during the Time of changing the Signals: as to her particular Situation at thoſe Times, I cannot ſpeak poſitively; but I attended to the making the Signals, and thought, with the Admiral, they appeared to be neceſſary. The Cæſar, at the Commencement of the Action, brought to to windward of the other Ships of the Van, and her Pendant was thrown out, the Signal for cloſe Action having been

been made; when the Royal Sovereign commenced her Fire, I looked at different Times afterwards, and ſaw her ſtill to windward of the other Ships of the Van; but as the Ship oppoſed to the Royal Sovereign bore up, the Royal Sovereign followed her, and was conſiderably ſeparated from the Ships of the Van; it was not therefore in my Power to have attended to the Cæſar particularly, for more than Three Quarters of an Hour after the Action commenced.

Q. As you obſerved the Cæſar to bring to, to engage, did Captain Molloy in ſo bringing to, take a proper Poſition for doing his utmoſt towards defeating his Opponent, and ſupporting the Bellerophon?—A. Certainly I think not.

Q. When did you next ſee the Cæſar again?—A. I cannot ſpeak poſitively to the Time, but to the beſt of my Recollection it was about a Quarter of an Hour before the Royal Sovereign ceaſed firing, which we conſidered to be about Thirty-two Minutes paſt Noon, and at which Time ſhe was coming down with her Foreſail ſet, hauled it up, and brought to upon the larboard Tack.

Q. During the whole of the Action, did you at any Time ſee the Cæſar cloſely engaged with any Ship of the Enemy?—A. I certainly did not; but I would not be underſtood to ſay that ſhe was not, becauſe from the Royal Sovereign's having been ſeparated from the Ships a-head of her, and the Van of the Fleet, it was not in my Power to attend to her particularly, but had I ſeen her in cloſe Action, I ſhould certainly have hauled her Signal in which was kept flying.

The Court aſked,

Q. Do you think that Captain Molloy did uſe his utmoſt Endeavours to paſs through the Enemy's Line on the 29th of May?—A. The Cæſar, when ſhe paſſed the Royal Sovereign, then the third Ship a-ſtern of the Queen Charlotte, appeared to me to be ſteering the Reverſe of the Courſe that the Royal Sovereign was then ſteering, ſhe being by the Wind on the larboard Tack, and ſhe did not point towards the Enemy.

Q. Did it appear to you that Captain Molloy did take a proper Station for coming to cloſe Action with the Enemy on the Firſt of June, prior to, and in Compliance with, the Signals made to him for that Purpoſe; and did he omit to exert his utmoſt Endeavours for the Defeat of the Enemy on that Occaſion?—A. Captain Molloy did not appear to me to take a proper Station for coming to cloſe Action with the Enemy on the Firſt of June, and by ſo doing, did appear to me to omit to exert his utmoſt Endeavours for the Defeat of the Enemy on that Occaſion.

Captain Edward Thornborough called in again.

Sir Roger Curtis aſked,

Q. Did you command the Latona on the Firſt of June laſt?—A. Yes.

Q. Where was the Latona ſituated during the Action on the Firſt of June?—A. To windward of the Britiſh Line, and nearly a-breaſt of the Queen Charlotte, at the Beginning of the Action, but farther advanced towards the Van at the Concluſion of the Action.

Q. Did you obſerve the Cæſar bring to, to engage?—A. I did.

Q. In what Situation, with Reſpect to her Opponent, did the Cæſar bring to, to engage her?—A. She brought to a long way to windward of her Opponent, much further than any other ſhip.

Q. Did Captain Molloy, by bringing to in that Situation, take a proper Poſition for doing his utmoſt to defeat his Opponent, and to ſupport the Bellerophon?—A. No.

Q. Did you obſerve the Cæſar fill, after ſhe had been lying to?—A. I obſerved her bear down about the Time that the Van Ship of the Enemy bore away.

Q. What farther did you notice of her?—A. That ſhe brought to under the Lee-bow of the Bellerophon, nearly in the Place that the Van Ship of the Enemy had left.

Q. Upon what Tack did ſhe bring to?—A. Upon the larboard Tack

Q. Did you ſee the Bellerophon attacked by the Cæſar's Opponent, the Van Ship of the Enemy?—A. The Cæſar's Opponent fired at the Bellerophon when ſhe was going off upon the ſtarboard Tack.

Q. Did the Cæſar at that Time give Support to the Bellerophon?—A. No.

Q. Did the Cæſar appear to you to be in a Condition capable of giving Support to the Bellerophon?—A. She appeared to me in every Reſpect, as capable of giving Support to the Bellerophon, as when the Action commenced.

Q. Was your Ship (the Latona), during the Action, engaged with any Ship of the Enemy?—A. Yes, by the ſecond Ship in the Van; and likewiſe the Cæſar's Opponent.

Q. At what Time was that, as to the Situation of the Fleets?—A. It was after the Bellerophon had made the Latona's Signal to come to her Aſſiſtance, being in immediate Want of it.

Q. Was that after the two Van Ships of the Enemy had bore up?—A. I think it was nearly at the Time.

Q. Was the Latona in Action, except at the Time you have mentioned?—A. No.

Q. During the whole Action, previous to that Period, as there was nothing to interrupt your Obſervations, did you at any Time ſee the Cæſar cloſely engaged with any Ship of the Enemy?—A. No, ſhe never was.

Sir Roger Curtis ſaid: Mr. Preſident, and Gentlemen of the Court, I ſhall now cloſe the Evidence on the Part of the Proſecution. Admiral Graves, and ſeveral other Officers, were ſummoned to appear in Support of thoſe Facts to which I have already examined the Evidences, reſpecting the Firſt of June; but their not appearing ſhall not occaſion me to delay the Court any longer, and I ſhall reſt the Proof of the Charges upon the Evidence that have been already adduced.

The Preſident aſked Captain Molloy when he would be ready to enter upon his Defence.

Captain Molloy ſaid, that being in Poſſeſſion of the Evidence, he ſhould exert himſelf to prepare his Defence, and that on Tueſday Morning he ſhould be ready.

The Court then adjourned till Monday Morning at 10 o'Clock.

Monday,

Monday, the Fourth of May, at Ten o'Clock, the Court met according to Adjournment.

Captain Molloy produced a written Paper to the Court, which was read by the Judge Advocate, and is as follows:

"If it be the Pleaſure of the Court that I ſhould proceed on my "Defence To-morrow, I certainly would be ready to do ſo; but if "I might be allowed to indulge in a Wiſh (very natural upon ſuch "an Occaſion), I ſhould requeſt till Wedneſday Morning to digeſt "properly the large Body of Evidence which has occupied the Court "for ſo many Days."

Sir Roger Curtis informed the Court that he was directed by Lord Howe to ſay, that notwithſtanding the Boatſwain of the Cæſar was in the Court during the Examination of one of the Witneſſes, he had no Objection to his being examined, if Captain Molloy wiſhed it.

Captain Molloy ſaid he wiſhed to examine him to the Firſt of June.

The Court agreed that the Boatſwain ſhould be examined, provided he had not been in Court during the Examination of any Witneſs ſubſequent to the laſt Reſolution reſpecting him.

The Court adjourned till To-morrow Morning at 10' o'Clock.

Tueſday Morning, 10 o'Clock, the Court met according to Adjournment.

The Court adjourned till To-morrow Morning at 9 o'Clock.

Wedneſday, the Sixth of May, at 9 o'Clock, A. M. the Court met according to Adjournment.

Captain Molloy produced a Paper Writing to the Court, which was read by the Judge Advocate, and is as follows:

"The Court will not be ſurprized if I confeſs myſelf to be affected, "which, added to Indiſpoſition, renders me at preſent unfit to conduct "my own Defence; with the Court's Permiſſion therefore, I will "reſign the Taſk to my Friend. The Manner in which I acquieſce "in Earl Howe's Wiſh that the Captain of the Fleet might be per-"mitted to conduct the Proſecution for him, leaves me no Room to "doubt of his Lordſhip's Readineſs to comply with mine upon this "Occaſion."

The Preſident acquainted Captain Molloy that his Friend might read his Defence.

The Defence was then read by Mr. Fielding, the Friend and Counſel of Captain Molloy, as follows:

MR. PRESIDENT, AND GENTLEMEN OF THIS HONOURABLE COURT.

Before I engage more of your Attention, allow me to expreſs the Satisfaction I have *already* derived from the *Court*, in the Proſpect of a *ſteady, comprehenſive, patient, impartial*, and *manly* Inveſtigation of my Caſe.

This is what I have *eagerly* beſought from *Day* to *Day*, for more than Ten Months paſt. This was the *Due* of the *Occaſion*, and the *Due* of my *Situation* in his Majeſty's Service.

This Inveſtigation, I truſt in Almighty God, will adminiſter both *Leſſon* and *Comfort* to thoſe who may *hereafter* place their Reliance upon, or make a Part of ſuch a Tribunal of Juſtice and of Honour.

Of my immediate Reſolve to claim a Court Martial, when the public Letter of the Commander in Chief made its Appearance in the Gazette of the Twenty-firſt of June, and of the Motives which have directed me to purſue my Claim, with unremitting Solicitation and Anxiety *from that Hour*, through the *long* and *painful Interval*, I need ſay little.—The Nature of my Requeſts, and the Repetition of them, are *partly* in Evidence before the Court; and I truſt they will admit but of one Opinion, and one Sentiment, in the Breaſt of every Man of Honour in the Britiſh Navy.

I confeſs that I was ſeized with *Aſtoniſhment* when I was firſt apprized of the Letter of the Commander in Chief tranſmitted to the Lords Commiſſioners of the Admiralty, in Conſequence of my Requeſt to his Lordſhip to be allowed to account before a Court Martial for my Conduct on the 29th of May.

The Letter I allude to, bears Date the Third of July; and then, and not *till then*, *not till* I had long before ſubmitted my Requeſt to the Earl, was there the *leaſt*, moſt diſtant *Intimation* from his Lordſhip, of any *remote Poſſibility* of *Crime* ariſing out of an Enquiry into my Behaviour on the Firſt of June.

'Tis not *alone*, that no ſuch Intimation had been conveyed to me, either *by*, or *from* the Commander in Chief.—I was then poſſeſſed of his Lordſhip's *public* Approbation of my Conduct of the Firſt of June (this Approbation delivered to me on the Thirteenth), as I was long before, of the ſtrongeſt Teſtimonial of his Lordſhip's good Opinion, by the honourable Station his Lordſhip aſſigned, and *Orders* given to me between the Twenty-ninth of May, and the Firſt of June. I *am* proud of *both*. But it has turn'd out to be his Lordſhip's *ſubſequent Pleaſure* to make a Queſtion of the Title to that Honour, which he had conferred ſo long before.

I beg you to do me the Honour of believing, Sir, that this *dilatory Intimation* incited no Alarm. Free from the leaſt Apprehenſion of having failed in any Duty of the Service, and *anxious* only for the Opportunity now afforded me, the *Subſtance* of the noble Earl's Intimation produced nothing that could affect my *Heart*, though *many* of the *accompanying Qualities* of it *conſiderably* and *painfully* engaged my Mind.

To the noble Earl himſelf. Although the Situation in which I *ſtand* here, at my *own Requeſt*, juſtifies me in ſaying, that the *tardy Superaddition* of his Lordſhip manifeſts a *ſtrange Deportment* towards me; let me not be ſuſpected of *indulging in an Expreſſion*, or a *Feeling*, that are not intimately allied to very earneſt Gratitude, and the moſt profound Reſpect.

I have taken Leave to ſay, that ſuch Deportment is ſtrange.

It muſt be *more* ſtrange, if my *own Supplication* to enforce the Law, that would affect my Life, ſhould have *engendered* and ſtirred up an active

active Hoſtility to purſue me; the Motives to which did not exiſt before that Supplication was urged. It muſt be *more* and *more* ſtrange, if Effects commonly aſcribable to *known Cauſes*, ſhould be accounted for as iſſuing out of others.

The noble Earl's Indiſpoſition, no Man laments more *earneſtly* than *myſelf*; and though the *Ends* of the Proſecution were not leſs likely to be accompliſhed under the Conduct of his Lordſhip's Repreſentative, yet, for many Purpoſes of Information, the Court have Reaſon to deplore the Abſence of the Commander in Chief.

I have Reaſon; but believe me, Sir, not becauſe the Repreſentative of the Accuſer has *implicitly complied* with his *Inſtructions* to uſe his moſt *ſtrenuous Exertions*.

Be the Cauſe what it may, Sir, the Intimation is now *conſtructed*, and formed into a Charge. The Evidence upon it, and what has *uſher'd* in that Evidence to the Contemplation of the Court, leaves no Doubt of the immediate Import.

It is *rank Cowardice*. I *diſdain* the Imputation.

From the firſt Day of the Trial, the Court could readily *perceive* the *Nature of my Defence* to the firſt Charge; I then *admitted*, and I do now *admit* the Facts ſpecified in the *Allegations* of the Charge; denying any Criminality, and completely relying upon a complete Juſtification.

The Accuſer has endeavoured to *anticipate* the *Force* of the *Letter*, and *not contented with my Admiſſion*, to *aggravate*, by *perſonal* Evidence, the *Imputation of the former*. To accompliſh theſe Ends, no Means have been ſpared, that ADDRESS, extreme Ingenuity, and conſummate Aſtuteneſs could ſupply; and it is but Juſtice to him, to ſay, that his ADROITNESS has manifeſted a *Talent* ſuppoſed *peculiarly* to belong to a more *tranquil Profeſſion*. The Opportunities of an *Accuſer* to exerciſe this Talent, are very many, and very many indeed have been exerted. The Diſadvantages of the *accuſed* are innumerable, but they do *not appear upon the Surface*, and are not very likely to become the Subject of Converſation; therefore, Sir, delay the Court from the Examination of *my* Evidence, by a ſhort Review of *that* which has been adduced againſt me; I am ſure I ſhall be pardoned. *Time*, and *Diſtance*, form very material Conſiderations in my Caſe; but I acknowledge, that the *Time* to commence my Defence, is ſufficiently aſcertained by indubitable Teſtimony; but not ſo, by *a great deal*, the *Diſtance*, either *at* that Time, or *through a conſiderable Space of Time*, which is incumbent upon me to account for.

My Report now lying upon your Table, Sir, would ſeem the firſt Article of Evidence to advert to; but as I have ſome Thing preſently to ſay, upon that Report, and it will not break in upon the Line of Witneſſes, I ſhall poſtpone it for a little While.

I ſhall not follow the Example of the Accuſer in his *Examinations*, which have led the Witneſſes backwards and forwards, taken them away from Points upon which any Thing favourable could ariſe, but follow the *Witneſſes* themſelves in Order of Time and Situation. Vice Admiral Sir Alan Gardner firſt brings the *Cæſar* into *Notice*, on the Morning of the 29th of May, by her paſſing onward to her Station to the windward of the Queen. I beg the Court to behold

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this Statement attentively. It ſeems that I muſt have been as willing to get to my Station as mortal Man could be, and only my Enemies, as willing at the firſt as the Accuſer, would ſuppoſe me unwilling at the laſt. I am attacked at the *laſt Extreme*, where I could not help myſelf, and kept out of Sight (unleſs it had been for this accidental Piece of Evidence from Sir Alan), at firſt where it might have been moſt likely, not very difficult to have kept back.—I beg the Court again;—but *indeed* Sir Alan Gardner had ſtated this in his Report before he came here.—

Upon the Fact ſo communicated, does not the ſame Obſervation apply? Many Men there are, I think, who, with this ſingle Fact alone, would have combated the whole Charge.

The Cæſar conſiderably outſailed her.—The Admiral made the Signal for the Cæſar to make more Sail, at Eighteen Minutes after Eight, and ſix Minutes after another to the ſame Effect; the Cæſar appears to be in the Act of Obedience to the Signal when the Accident happened to her Maintop-ſail.—*Would to God I could have prevented that Accident.*

It is remarkable *now*, and *will be more ſo preſently*, that Sir Alan Gardner has given his Sanction to the very Thing I did.—*Regard*, Sir Alan has ſaid, *is to be had*, when this Signal is *conſidered* to the Proportion of Sail, *then* or *before* carried by the Commander in Chief. The Cæſar outſailed the Queen Charlotte, as well as the Queen.—The Admiral's Ship had not *her Main-tack* on board; as ſoon as the Accident happened to the Maintop ſail of the Cæſar, I ſet the *Main-ſail*, *Main-ſtay-ſail*, and *Maintop-maſt-ſtay-ſail*; and although we might loſe ſomething of the Comparative Rate of ſailing before the Accident happened, yet we ſoon led the Van.

Before I follow up the Evidence upon our *Courſe* into Action with the van Ships of the Enemy, let me entreat your Attention, Sir, to the Teſtimony, and the *collateral Remarks* purpoſely *introduced* by the Accuſer, upon WHAT Sir Andrew Douglas *called* the *Effect produced upon the Fleet*, by the *Misfortune* on board the Cæſar. It will be remembered, Sir, that there would have been *Eight Ships*, including the *Queen* and the *Leviathan*, between the Cæſar and the Queen Charlotte, if we had been ſailing in ONE Line.

And it muſt ſtrike the Court as *remarkable*, at leaſt, that what the Accuſer has choſen to call the Britiſh Line, in ſo many of his Queſtions, really requires the incorrectneſs to be ſet Right, and it was deferred till Captain Nicholls, upon the *Second Charge*, *almoſt* by *Accident*, though from the moſt *commendable* Intention of Accuracy, gave the Deſcription of the then Situation of the Fleet; in *fact* there was not what ought to have been called a Line; the Van Diviſion, conſiſting of Eight Ships, being ſo much to *windward*, that the *Leviathan*, the headmoſt of the leeward and Admiral's Diviſion, could not have poſſibly *fetch'd* the Poſition of the Cæſar, when ſhe began to engage.

Now I beg to remark, Sir, how the Obſervation on board the Queen Charlotte muſt have applied, ſuppoſing the *Fallacy* of the *Line* had remained unexplained by Captain Nicholls.

If the Queen Charlotte had been obſtructed, and had ſhortened Sail

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In Conſequence thereof, the Obſtruction muſt have ariſen in this Order, firſt by the *Leviathan*, then by the Majeſtic, the Orion, and ſo on, through the whole Van, before the Obſtruction could be attributed to the Cæſar; was it FAIR to *encumber me* with executing *that* of which I could not even know a Syllable? Was *I* to account for what was done by Ships in the Rear?

But, Sir, it would have been but CANDID, *if*, from *thoſe Ships themſelves*, there had been brought forward ſome Evidence that were *blameleſs*, before the accumulated Blame was attempted to be fixed on me. In the windward Line of ſailing of the *Eight Ships in the Van*, ſuch Obſtruction will appear perfectly unaccountable.

The Queſtion put by the Admiral's firſt Captain, relative to the Effect upon *the Britiſh Fleet*, ſurpriſed me more than the *Anſwer* of Sir Andrew Douglas.

Indeed! Indeed! Sir, there appears to me a *ſtudious* Introduction of a *Matter* very *wide* of the *Specific Charge* againſt *me*; what the Admiral's *Intention were*, or what the Effect upon the Fleet, conſtitute no Parts of that Specific Charge.

The Imputation of *Diſobedience* and not *performing my utmoſt Duty*, is enough for me to anſwer; *I do not preſume*, nor ought I to preſume to *controvert* the *Likelihood of the Earl's Deſign*. But I will *aſk* if it can *poſſibly be conceived*, at *this* Moment, *that at the Time* when the Accident happened to the Maintop-ſail, my TARDINESS, if it *could be ſo called*, had been obſerved; no Repetition of the Signal, ſave that I have alluded to; no Token of Diſapprobation; no Frigate ſent; *and no one Signal being made from the Queen*; the Ship of the Vice Admiral, the next in Station a-ſtern of the Cæſar.

I will aſk, I ſay, if it can be imagined, that upon *this* Account, at that *preciſe* Time, the Commander in Chief thought, or *could think*, that voluntary Neglect was imputable to the Cæſar? If *not* ſo, if *the noble Lord* did not *adopt* the *Thought at that Moment*, how and when has it *crept* into his Mind? If it did not ſtrike his Lordſhip a FAULT even at that Time, how can it now, ſo as to make a Part of a cumulative Charge?

How far to windward was the *ſternmoſt* Ship of the *van Diviſion*, the *Majeſtic*, is not ſtated; and why *there* was this *Weather Diſtance*, or *any Diſtance* between the *Leviathan* and the Majeſtic *is not even aſked*; it SHOULD have been aſked, and not the obvious Taſk impoſed on me of aſking a Queſtion that might *imply* a Suppoſition of Blame on board the Leviathan; none could *poſſibly apply to the Majeſtic*, for ſhe, with the van Diviſion ſoon got near enough to the Enemy to open her Fire, which was not the Caſe with the Admiral's Line a head.

It ſhould have been aſcertained for *another* Purpoſe, which I ſhall mention by *and* by.

I return now, Sir, to Sir Alan Gardner, and to any Poſition *he thinks* I occupied when the Cæſar engaged the *Jemappe*, for ſo I underſtand was call'd the van Ship of the Enemy.

The OPINION which Sir Alan Gardner has delivered, in Anſwer to the general *Queſtion* of the *Court*, *will*, *I truſt*, be diſcharged from his Boſom, when he ſhall have heard of the Court's Deciſion upon the Evidence I adduce, as he well knows the inſeparable Circumſtances attending

attending a brisk Fire in Action, and how few the Opportunities are of *disengaging* the Mind from its proper *Attraction to Objects* on board his own Ship.

Captain Bedford's *present* Opinion is the same as his Admiral's, formed upon the same Materials, and equally, *I own*, warrantable; but neither the one Gentleman, or the other, thinks that there was a *Probability* of the Van Ship of the Enemy being nearly silenced by the Cæsar, at the Time when the Commander in Chief made the Signal to the Cæsar to tack; and they *so conjecture*, from her Appearance of not having suffered in *her Masts* or *Yards*. The *Court will judge* when they have heard my Evidence, and the World will understand that the Cæsar did not quit the Jemappe voluntarily. And *here* it is but *common* JUSTICE *to my Officers and Ship's Company*, to *suggest* that the JEMAPPE, the Van Ship of the Enemy, *engaged by the Cæsar* till the Signal to tack was made, was *not found* with the *French Fleet on the 1st of June*, and it is *well* known what Account was given of *her to the French Convention*.

The first Signal for the Cæsar to tack, which was speedily annulled, I have little to do with; the second Signal to tack in Succession, which was made at the Time specified, *I did not obey*: *I* WORE *instead* of tacking, and made the *Signal of Inability to tack*. It has long been my Request to account for my *Non-obedience*, and the *wearing of the* Cæsar at that Time. I now become *at* the Time of, and *in* the *Act* of wearing, the *very natural* Object of differently qualified *curiosity*, or *solicitude*, to those near to the Cæsar, and those at a Distance.

To Sir Alan Gardner, Captain Bedford, Captain Payne, Captain Duckworth, nearer to me, Lord Hugh Seymour, Sir Andrew Douglas, Lieutenant Bowen, Captain Barlow, Captain Stopford, at a greater Distance, and *presently* come within the REACH of *Captain Hope*, and the Observation of Captain Nicholls. *And* am charged with not attempting to go through the Enemy's Line; To meet the greater Part of the Evidence that stands upon the Minutes of the Court, and not to fatigue the Court, *after my Admission* by *minute Remarks* on every *individual Testimony*, the first Thing I shall notice, as observable, *is*, that the Cæsar did not come to the Wind after wearing, as the Queen did, when she wore soon after the Cæsar, nor pass under the Queen's Stern as the Queen did, under the Stern of the Russel; I dare say it has been already noticed by the Court, that the whole seven Ships of this advanced Division, *like* the Cæsar, did not obey the Signal to tack, but they wore in Succession, and afterwards *obtained differently distinguished Situations*, but most of them are *not mentioned* in the *Evidence* before the Court: the Orion, indeed, is mentioned by Sir Thomas Pasley, it being an indifferent Circumstance, as being afterwards near the Queen Charlotte. Now, Sir, though the Queen had gone under the Russel's Stern, and weathered the Ship next a-stern of her, yet, with this Advantage gained to *windward*, *afterhaving passed along the Enemy's Line* from her Opponent in Action towards the Rear, she *recognizes the Cæsar abreast of the French Rear Ships*, a little more than a Quarter of a Mile to leeward of the Place she then arrived at upon the Queen's Beam.—Captain Duckworth was asked, when he had passed along the Enemy's Line, whether he had not been pretty roughly handled, I dare say he was.

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Here the Mention of the Enemy's Fleet will properly come in; and not a Word have you upon your Minutes of the Extent of their Line. It is obvious, however, that the *Centre* and *Rear Diviſions* were *a-ſtern of the French Ship*, engaged with the *Majeſtic*.

WHATEVER Britiſh Ship, therefore, could get under the Stern of the Majeſtic, and was to run the parallel of the French Line towards the Rear, muſt neceſſarily paſs 23 of the French Line. So much for this at preſent. I only wiſh that this Deſcription, which is evidently juſt, may be recollected when my Report is adverted to.

Now, Sir, I beg your Attention to the Queen Charlotte; how the Admiral's Diviſion might ſhorten the Diſtance; we were *a-head* of him, during the time we were in Action, being about an *hour and an half*, I cannot ſay but ſomething muſt have been gained, upon his Lordſhip's Line of ſailing; and, as the Cæſar was upon the Queen Charlotte's *Weather*-bow, at the *Commencement* of the Action, ſhe would neceſſarily appear more upon her Beam, as the Diſtance was diminiſhed, and the Queen Charlotte got a-head; it is *probable*, Sir, that the Admiral approaching nearly a lateral Situation with the Cæſar at the Time of her wearing, and before ſhe came round on the ſtarboard Tack, her head, or *Larboard-bow*, might *appear*, for a *ſhort* Time, in a Direction to the Queen Charlotte, and *this* might countenance, for a *ſhort Space of Time*, the Evidence upon the Minutes from ſeveral of the Witneſſes, That this *was* the *likely* Period of the Admiral's Obſervation, and indeed of the Obſervation of ALL who were out of the Action, need only the Statement of the Fact itſelf, at ſuch a Criſis. What I have juſt ſaid, of a Situation on board the Queen Charlotte, will apply ſtill more forcibly to a Situation on board the Leviathan; inaſmuch as the Leviathan was a-head of the Admiral, and I do verily believe that the *complete* Idea is demonſtrable. Mr. Bowen, unaware, ſeemed to have confirmed this Idea, and ſays the Admiral *obſerved* that we had miſtaken the Meaning of his Signal, and that *he muſt tack* to SHEW us the Meaning. This it will be remembered, and it is, *indeed*, *extremely* remarkable! Sir Andrew Douglas aſcribed *another* Intention to the Admiral, namely, that he, the Admiral, ſaid he would tack *to go to the Queen*; how ſhe, the Queen Charlotte, was to accompliſh this Intention at or near this Time, it is impoſſible for me to conjecture; for when ſhe came upon the ſtarboard Tack, and I preſume kept cloſe to the Wind, ſhe could only fetch between the 5th and 6th Ships in the Enemy's Rear. I mentioned before, Sir, that the windward Diſtance of the Van Diviſion from the Admiral, ſhould have been aſcertained; it is not. But if Sir Andrew Douglas be *within* the Length of a Cable, or two, or three, in his Eſtimate of the Diſtance, at which the Cæſar paſſed the Queen Charlotte, the Cæſar muſt appear to have clawed to windward, *moſt uncommonly indeed*, to have got to the Station aſſigned her by Sir Alan Gardner. What now becomes then of the Evidence of Captain Hope?

It was then queſtionable, in the Admiral's Mind, *whether* the Queen Charlotte would tack or not: here again I muſt beg to make an Obſervation, ſimilar to one I have made before; that is, no Signal to the Cæſar to keep to the Wind, no Frigate ſent any Token of Diſapprobation, at the Continuation of her Line of ſteering. It is moſt true, that

the Signal to tack implies, that the Ship is to keep to the Wind on the other Tack, as was anſwered to a Queſtion from the Court; and, if the Cæſar had *purpoſely* gone from the Wind, ſhe would have been in a continued Diſobedience of the Signal. *But* is ſhe *ſeen* by one Admiral, or the other? Yes! by both!—Does either the one or the other Admiral make any Signal? No.—In the Name of God what is the inevitable Concluſion—This; that there was no Impropriety for an Admiral to notice, and therefore no Admiral did.

And now——a QUESTION ſimilar to one I have aſked before; can it be conceived that the Noble Lord himſelf at that Period thought me criminal—if not *then*, how, in the Name of Wonder, has it *happened* that the Thought has got Exiſtence? And here I beg to call your particular Attention, Sir, to the Evidence of Lord Hugh Seymour. The Leviathan, it is remembered, was a-head of the Queen Charlotte on the larboard Tack, conſequently would be expected to be to windward of her on the ſtarboard Tack, unleſs ſhe was to fall into the Admiral's Wake, of which I have not heard; and Lord Hugh Seymour afterwards deſcribes the Situation of the Cæſar to be as Sir Alan Gardner had before, with this *remarkable Addition* of his Lordſhip's, of the two French Ships to leeward of *their* Line, and conſequently near the Cæſar; a Circumſtance which Sir Alan Gardner had forgot, or did not *diſtinguiſhingly mention*; and if he did forget to mention it, there would be no Wonder at this Diſtance of Time. But it has been ſaid, and I confeſs by more than one, that the Cæſar appeared to be ſteering on a parallel with the Admiral's Line, in a reverſe Direction. God knows where this Line of ſteering would have carried her; beyond any Doubt ſo far to leeward, in a *very ſhort Time*, that it muſt have been *utterly impoſſible* to have recovered the Place, which was ſtated to have been by Sir Alan Gardner a Quarter of a Mile, or more, to leeward of the Queen, when the Queen reached the Rear of the Enemy. By what other Ships in the Fleet I am expected to form a comparative Eſtimate of *Station, Courſe*, or *Vicinity*, to the Admiral, the Accuſer has not choſen to intimate either to the Court, or to me, *the Accuſed!* Indeed, Sir, if he had, I ſhould hardly have known how to have ſet about it: I had enough to do on board my own Ship: *there* were Objects enough to occupy my *Sight* with my other Senſes, in order to perform my Duty.

And the Court, with ſtrong Feelings of Delicacy, will diſcern, that if *I could, as I cannot*, either *ſtate* or *queſtion* the comparative Circumſtances of any other Man of War in the Britiſh Fleet, it would be foreign to my Buſineſs. Whatever their Appearances, damaged or undamaged, wherever their Places, I preſume their Commanders performed their Duty. Thoſe who meet with Encomiums I heartily congratulate.

It would ill become me to convey Panegyric, as to attempt to attach Blame; as ill does it become the Accuſer to adminiſter to the heated Paſſions, by their *irreſiſtible Perſuaſions of the one*, or *the inſeparable Apprehenſions of the other*.

The Accuſer ſhould have circumſpectly confined his *Reſearches* within the Charge levelled againſt me. Here, Sir, I ſhall nearly cloſe my Remarks on the *Evidence* brought againſt me for the 29th of May.

The Opinions of all the Officers, in Anſwer to the general Queſtion,

tion, *conſidering the Impreſſions they had indulged*, could be but *one*, and the *ſame*; and they ſtand regularly on the Minutes of the Court, eſcorted and led by very many Searchings for Inſinuations, which have ſtolen into the Examinations.

The Court too, I thank God *(when fully informed)*, will give *their* Opinion; yet let me not be thought to keep back from your View, Sir, and, perhaps, your Comment, the Idea of Captain Hope! that *he* obſerved the Cæſar going RATHER to leeward of the parallel before-mentioned; and, moreover, the Captain obſerved the Mizen-ſtay-ſail of the Cæſar in the Brails.

Now, Sir, I come to my Report; and, without the leaſt Heſitation, I confeſs that I have made ſome Miſtakes: yet, in ſuch Articles as, I truſt, when explained, as they ſhall be by abundant Evidence, will leave no Atom of Suſpicion that there is any intended Miſrepreſentation of the Cæſar.

God knows, when, in Obedience to the moſt uncommon Order, I made that Report, I had little Suſpicion of the Snares of Treachery, of the hoſtile Purpoſes to which it was to be turned; either at the firſt Intention of attacking my Reputation, or, in the ſubſequent Repetition, of its Uſes in the Attempt upon my Life. This, of all the Evidence that was ever offered in a Court of Juſtice, either in a Court-Martial, Civil-Court, or Criminal-Court, is the very Evidence that Delicacy, Fidelity, Generoſity, the moſt common Humanity, and Honour, ſhould have kept back, even if it had been under all the Circumſtances of the Caſe, judicially determined that it was competent to uſe it.

Merciful Heaven!—Be careful, ye generous Youths, what you do; you muſt not truſt to Memory, ingenuouſly however diſcharging herſelf—you muſt not *write* without Memorandum, Notes, Signals, regulated Accounts before you. Though you may be called upon to give Evidence againſt the Life of a Brother-Officer, without being able to aſſign one ſubſtantial Reaſon for a Memory of a paſt Tranſaction—I have forgot to praiſe, perhaps—that becauſe I thought *all* deſerving. I am ſure, very ſure, Sir, there is no Cenſure; and the Court will be ſtruck with the Providence of its Uſes in Defence. And as I now mention my Report, Sir, permit me to ſay, when I very imperfectly ſtated my Objection to the Accuſer being ſuffered to read my Report to any Witneſs, I think it was owing to that Imperfection of Statement that he was allowed the Privilege.

My Report is, to every Intent and Purpoſe, my Confeſſion; and, under many Circumſtances, may be Evidence againſt me. It is no public *official* Paper; and this Evidence is ſuppoſed to be known only to the Court, juſt like all the other Evidence, and upon which either the Court, or Accuſer, may frame any pertinent Queſtion they pleaſe to aſk; but to read a Part of that Report to a Witneſs, is informing the Witneſs of what has before paſſed, and appeared in Court, and therefore oppoſite to the Regulations of Courts-Martial: beſides, it enables an Enemy more eaſily to direct his Attack; nay, indeed, by merely negativing the Circumſtances diſcloſed, which he foreſees is to be the Defence of the Accuſed. The other Reports upon your Table, are not like this; they are, in the Charge itſelf, pointed out as the Founda-

tion of the Charge, and to read them to a Witneſs is only repeating the Charge itſelf! How extenſively, I will ſay, how enormous the Proſecutor has *uſed this Privilege*. The Court have ſeen, and, doubtleſs, they have noticed, that *I have* interpoſed *no ſecond* Objection; they muſt have remarked beſides, that almoſt every Queſtion that has been put to the Witneſſes, has been calculated to produce an Anſwer, unavoidable, that muſt *neceſſarily* beget a Suppoſal of Guilt, without a Poſſibility of any accompanying Explanation that could remove the Suppoſition once raiſed, or extenuate, in any Degree, the Imputation of the Crime.

I do not lament that it has been ever ſo; Prejudice muſt have attained its Summit, and I muſt be contented with its Influence for a Time, I will not unneceſſarily repeat the Narrative contained in that Report; the Evidence muſt ſupply its Defects, and correct its Miſtakes.

As to the ſecond Charge, I have already obſerved, that the palpable Import of it is Cowardice. Here, indeed, I muſt introduce a ſmall Portion of Time between the 29th of May and the Firſt of June, namely, the Evening before on the 31ſt of May, when I was hailed with all the Politeneſs of either Sir Roger, or Sir Andrew—*Draw your own Line out*—make Sail a-head, ſteering on the ſame Point of the Compaſs the Admiral does.

The Word *Poſition*, and all that it can poſſibly ſignify, in either the moſt narrow, or moſt extended Conſideration of it, could never have been thought a Point or Subject of the Charge, without viewing it as *preceded by Cowardice*, accompanied by *Cowardice*, and followed by Cowardice; and, indeed, reſolving itſelf into the Concluſion of the Charge, That I did not do my utmoſt to defeat the Enemy, and afford Succour to the different Ships in the Britiſh Fleet. The Concluſion carries the ſame Accuſation of Cowardice. I anſwer it as before—with Diſdain.

My Anſwer, indeed, can avail nothing; and it ſtands here as a mere Matter of Form. The Court will determine, after hearing much Evidence immediately applicable to the Facts of the different Charges. Some of that Evidence too, and ſome others, which *conſtitutes the Pride of my* Life, which I ſhall be compelled to lay before you, whether on the Firſt of June, for the *firſt* Time in my Life, after three-and-thirty Years devoted to his Majeſty's Service, during which I have had a Share, and, I truſt, an honourable Share, in many other Actions, beſides nine general ones; whether, I ſay, I am to be now branded with the Name of Coward? Again; let me obſerve the Conduct of the Proſecution, whether it has proceeded from *Accident*, or *upon Deſign*. The two Charges have been *ſtudiouſly* and *induſtriouſly attempted* to be *eſtabliſhed ſeparately*.

The Witneſſes have been called upon *twice*; firſt, to *complete the Attack* upon me on the 29th of May; and again, after intervening Days, to renew the Attack upon me on the Firſt of June. THEY *did not know*, nor do they now, what the Court *will* before long, Ignorant, perfectly ignorant of *this*, they had made up their Opinions on Appearances of the 29th—*Theſe were unfavourable towards*

Prejudice, Sir, when once born, grows rapidly to Maturity; it is like Jealouſy on this, that a Trifle, light as Air, will become to Prejudice a ſtrong Confirmation.

With *what Eyes, what Thoughts, what Impreſſions, what Feelings*, and *conſequently* what Reſolutions, muſt theſe Witneſſes have *ſeen* and *ſpoken of* me upon the Tranſactions of the Firſt of June; *and* if a *ſtrong Degree* of Prejudice had *already ariſen* in the Mind of any Witneſs, before the Cloſe of the Day of the Twenty-ninth; by *what Words in the Engliſh Language* ſhall I expreſs *the Degree of Prejudice* with which *ſuch a Witneſs* muſt *ſee* and ſpeak of me? The *Glance of Prejudice*, Sir, is never *abſorb'd*, but reflecting from its *Object* back upon itſelf, ſpreads into a glare; beſides it ſtrikes directly *at*, and continues upon its Object; and the Eye takes in no other.

The Court and the World will ſupply my Defect upon ſuch a Head of Contemplation, in their Opinions of Truth and human Nature.

One more Remark, which I think the Court has already anticipated, and I could *willingly withhold*, if the thorough Inveſtigation of this Caſe did not demand it. How minute is the pecuniary Intereſt upon which the Law of England abſolutely forbids that any one human Being ſhould be allowed to give any Evidence before a Court of Juſtice! What pecuniary Intereſt can vie with the Inclinations of Fame? How *impetuouſly* theſe Inclinations act upon the human Mind (and the more honourable the Mind is, the more will be the Impetuoſity), I leave to this Honourable Court. It might be *accidental Indelicacy* (and yet the Queſtions ſeemed to be moſtly written down), that made the Accuſer compel, and *force*, as it were, many of the Witneſſes to involve their own *Celebrity* in Examinations which ought only to have reſpected me.

Here Queſtions have been repeatedly aſked, Whether I made at one Time or the other Signals of *Inability*.

I made *none*, but that of Inability to tack.

Now, Sir, to the Witneſſes.—Captain Hope, his Admiral, and the Maſter of the Bellerophon, in much of their Evidence, I may conſider as *one very reſembling Account*. *Captain Hope will be, by and by*, brought to Recollection, as ſtanding upon the *Poop*, *coming* the Ship. The Rear-Admiral ſeems to have *wonderfully magnified* the Alarms of the Marines, and to have *multiplied* their Murmurs as *wonderfully*. Major Smith, their Officer, diminiſhes the one, and reduces the other to a Unit, and that Unit, he, like a Man of Honour, rebutted. Here is the Fact, Sir. One Marine, no *common* Marine I am ſure; they are brave Men. But here, I confeſs, the *Uniforms* I ſee around me, as well as in Court, form ſuch a Scene of Mortifications,——when a Rear-Admiral points out the *Standard of comparative* Valour to the Captains of the Fleet, as exiſting in the Perſon of a Marine Recruit, that I almoſt forget the Sufferings I have endured. If the Rear-Admiral could multiply Men as he has Sounds, he would make an admirable Recruiting Officer; though if he ſhould fancy the Men would murmur in the Heat of Action, neither Seaman or Marine would enliſt with him. Strange Magnitude—ſtrange Multiplication—but the Rear-Admiral was ſo *very early convinced that no Aſſiſtance was to be expected* from the *Caſar*, that there can be no Wonder at the Repreſentation

ſentation ſuppoſed to be deſcribed *even* from the Rear-Admiral's Senſes, conſidering the Medium by which they were affected. I ſhall ſay *no more of Sir Thomas Paſley!* only that it was *rather unkind in Sir Thomas* to be ſo precipitate in his Concluſion—*nor any more* of Captain Hope; my Evidence may chance to come acroſs his Teſtimony, and the Application of it bear upon the Captain—nor any more of Mr. Urquhart—and not a Word of Mr. James Parke, the Maſter of the Leviathan.

Lord Hugh Seymour, *will, I dare* ſay, be ready to correct his Miſtakes, when they are pointed out, and his Lordſhip *avows* that he ſhall be *very happy* if I can remove the Reſting-place of its Opinion. Captain Paine makes the laſt of the Witneſſes uſhered in by my Accuſer—ſaving indeed Captain Thornborough of the Latona.

Thus the Range of Witneſſes—the Evidence ſtands upon the Minutes. It ſhall be met, Sir, by a *Body of Proof*, Sir, that ſhall *anſwer it, explain* it, *amend* it, and where *Refutation can be neceſſary* ſhall refute it.

Two Things would have ſtood moſt marvellouſly unaccountable, and would have *perplexed* every *deliberate* and *diſpaſſionate Enquiry* in the World, *even* if I had been deplorably left in the Hands of my Enemies, and this Caſe was to cloſe upon me, without a ſingle Witneſs on my Part—theſe are the Number of Men on board the Cæſar, killed and wounded on that Day, and ſecondly, the *going away, as it is called*, of the Van Ships of the Enemy; the firſt perfectly unaccountable, and therefore not in the leaſt attempted to be accounted for, though the Fact muſt be known to the Accuſer; and the laſt equally unaccountable, unleſs Captain Thornborough in the Latona frightened her away; yet one would hardly think, judging from the Effects of our own Fleet, all of which I preſume did their utmoſt to ſubdue the Enemy. One Thing however is no mean Subject of Gladneſs; this is, that the Latona is ſtill the Latona in his Majeſty's Service, and no Complaint attaches upon Captain Thornborough for his Raſhneſs, when he ſo gallantly and ſo immediately afforded Succour and Support to the Bellerophon. The Obſervation which I ſhall now ſubmit to the Court upon the Accuſer, and the Nature of Interrogation, I have purpoſely reſerved till this Period, becauſe I have wiſhed that Prejudice ſhould attain its Summit.

Mark, Sir. Sir Roger Curtis chooſes to interrogate the Witneſs thus. Did you ſee Captain Molloy in the Cæſar in ſuch a Station? Anſwer, No. Did you obſerve Captain Molloy do ſo and ſo? Anſwer again, No. Did you ſee him here? No. There? No. Did you ſee him any where? No.

And every Anſwer to theſe Queſtions may, by Poſſibility, be true, and none more likely to be true than the laſt; for Reaſons very obvious. The marvellous Thing would have been, that they ſhould have ſeen the Cæſar at all, where I ſhall prove ſhe was. O God, Sir, what have been the Impreſſions that many of the Auditors have borne with them from this Court! They have not Diſcernment and Patience like your's. They wait not to hear the other Side of the Queſtion, and abide the Iſſue.

Was this Adoption of a Mode of queſtioning, by Accident? if it

was,

was, it is pardonable; it must be by Accident or Design, if not by Accident, what follows as an inevitable Concluſion. But Sir, *what Reputation*, however earned! What *Stability* of *Character*, however *prized* and *eſtimated* by the World, may not a crafty Catalogue of ſuch Queſtions and *unavoidable* Anſwers deeply affect.

I have detained the Court from my Evidence longer than I wiſhed.

I have been three and thirty Years in his Majeſty's Service, and have ſeen, as our Phraze is, a good Deal of Service. It has been my good Fortune to have met with various Opportunities of being in Action. I have had the Honour of commanding a Line of Battle Ship, in nine general Actions. Before I obtained that Rank in the Service, I had been in ſeveral others, at Periods long before the firſt of June, or twenty-ninth of May. Every Member of this Honourable Court is already acquainted with our Naval Hiſtory. I have honourable, and conſequently valuable Teſtimonials too. Some from the noble Earl whom the Accuſer repreſents as Accuſer. Would to God, that the noble Lord were now here in his proper Character! *He* has ſeen me in Action. Admiral L. Graves is not here! *He* has ſeen me in Action. Sir George Rodney is no more. Lord Hood, what he thought of me, he has expreſſed, the Court ſhall ſee his Opinion and his Thanks. But I am at laſt to be dubbed a Coward—Patience!. Intimately ſkilled in every Branch of the Service, as every Member of this Honourable Court is; they have perceived, how *needleſs, before them*, were any croſs Examinations of mine upon *Courſes, Bearings, Diſtances, with their infinite Deceptions; Views, Situations*, and all the inevitable attending Circumſtances of Ships in Action, with the various Accidents that *can* or *may happen*, and all the poſſible Effects of thoſe Accidents. Any Anxiouſneſs of mine upon ſuch Heads of Evidence would have been impertinent to the Court.

My Reſpect to the Court, Sir, forbid that I ſhould even delay by ſuch a Treſpaſs on your Time. Time how *valuable!* How *doubly*, trebly valuable, when one *undiſturbed Spirit of Valour* ſhall be looked upon as the pervading Soul of the Britiſh Fleet; and every Station repoſe a religious Truſt in the Guardians of their Honour—*Thoſe Guardians inacceſſible to the Whiſper* of *Detraction, unaſſailable* by the blaſt *of Surmiſe*. Before I *conclude*, Sir, I think it right to ſtate, that I ſhall have Occaſion to refer to the two Reports of the two Admirals upon your Table. I ſhall not preſume to *lead*, or direct the Attention of the Court, to *collateral Remarks*, that muſt unavoidably ariſe out of them.

MR. PRESIDENT, AND GENTLEMEN OF THIS HONOURABLE COURT,

Honourable and generous Men as you are, you will readily believe, that my Sufferings have been many and ſevere. Indeed, indeed they have: ere long, I truſt, you will regard me with the Sympathy of noble Minds: no Condition can obſtruct your Search after Truth, or impede your Progreſs towards Juſtice: my Life and Honour are in your Hands—I now bleſs this Occaſion, the Object of my Solicitation. I ſhall now, Sir, call my Witneſſes when I have returned my moſt ſincere Thanks to the Court for their Indulgence.

(Signed) A. P. MOLLOY.

The

The Court was cleared, and being again opened,

Major Driffield of the Marines, called in and ſworn.

Captain Molloy aſked,

Q. Were you Captain of Marines on board the Cæſar?—A. I was.

Q. Where were you quartered on the 29th May?—A. On the Quarter-deck.

Q. How did the Cæſar ſail with reſpect to other Ships of the Fleet, but particularly compared with thoſe of the Van Diviſion, on that Day?—A. I thought on that Day rather better.

Q. When the Signal for making more Sail was made, were any, and what Steps taken to obey it?—A. Every Exertion was made to comply with the Signal.

The Court aſked,

Q. Was the Signal for making more Sail, on the 29th May, made, and at what Time?—A. It was made, to the beſt of my Recollection, between 8 and 9 o'Clock, A. M.

Captain Molloy aſked,

Q. Were any Orders given to let a Reef out of the Maintop-ſail, and did any Accident happen to it?—A. There was, and in doing of it, the Top-ſail was ſplit.

Q. Was any other, and what Sail ſet in Conſequence of the Top-ſail being ſplit, and did the Cæſar, notwithſtanding that Accident, keep her Station in the Line?—A. There were other Sails ſet, but I can't, at this Diſtance of Time, charge my Memory with what they were; the Reaſon I think there were other Sails ſet, is, that the Ship appeared to me to be always in her Station, as leading Ship.

Q. At the Time the Signal for making more Sail was made, do you recollect how the Queen Charlotte was ſituated with reſpect to the Van Diviſion?—A. She was to leeward.

Q. What was the Ship next a-head of the Queen Charlotte, at that Time?—A. I think it was the Leviathan, pretty certain.

Q. How many Ships did the Van Diviſion, to windward of the Queen Charlotte, conſiſt of?—A. Eight, beſides the Cæſar.

The Court aſked,

Q. Do you mean a-head of the Queen Charlotte, or to windward?—A. A-head, and to windward withal.

Captain Molloy aſked,

Q. Did the Cæſar lead the Van Diviſion into Action that Morning, on the larboard Tack?—A. Yes, to the beſt of my Recollection.

Q. Did the Cæſar engage as near to the Enemy as ſhe could get, and did ſhe get as near to the Enemy as any other Ship of the Van Diviſion did on the larboard Tack?—A. The Cæſar was in general as cloſely engaged as any other Ship I ſaw.

Q. What might be the Cæſar's neareſt Diſtance from the Enemy, while engaged on the larboard Tack?—A. I am no Judge of Diſtance;

tance; the beſt Idea that I can give of it, is, that the Grape-ſhot that did not lodge in us, went a conſiderable Diſtance over us.

Q. Do you remember the Signal being made to tack in Succeſſion, and to paſs through the Enemy's Line?—A. I remember the Signal being made to tack in Succeſſion, but not at the Time the Signal was made to paſs through the Enemy's Line.

Q. When was the Signal made, to paſs through the Enemy's Line?—A. I cannot ſay at what Time, but the Diſtance between the two Signals may be 40 or 50 Minutes, to the beſt of my Recollection; I know it was ſome Time afterwards.

Q. At what time was the Signal firſt made to tack in Succeſſion?—A. I cannot ſpeak to a Certainty what Time.

Q. Was the Signal annulled?—A. It was the Signal for Tacking.

Q. When that Signal was annulled, did the Cæſar continue to engage her Opponent, the Van Ship, and for how long afterwards?—A. The Cæſar did continue her Fire for ſome Time afterwards; we obſerved that ſhe ſlackened, as the Enemy's Fire reduced her Fire to two or three Guns at a Time, never more.

Q. Do you remember that the Signal to tack in Succeſſion, was made a ſecond Time?—A. Yes, I do.

Q. Was every Preparation made to carry that Signal into Effect?—A. Every Preparation, every Exertion was made to carry that Signal into Effect.

Q. How long had the Cæſar been in Action, from her firſt Opening her Fire, 'till the Signal was made a ſecond Time for the Fleet to tack in Succeſſion?—A. I have ſaid before, that I did not pay Attention, either to Diſtance or Time; it was certainly ſome Time.

Q. Did the Cæſar tack or wear?—A. Wear.

Q. Why did ſhe not tack in Obedience to the Signal made for that Purpoſe?—A. As I conceived ſhe was in that diſabled State, that rendered it impoſſible, as I obſerved, that the Fore-yard was nearly cut in two; the Main-ſtay cut in two; and, to the beſt of my Recollection, the Fore, and others were much damaged.

Q. Before ſhe wore, was any Signal of Inability made to denote to the Commander in Chief, that the Cæſar could not tack?—A. In Conſequence of her Inability to tack, the Signal of Inability was made.

Q. After the Ship had wore, and was paſſing to leeward of the Van Ships of that Diviſion, were any Exertions made to knot and ſplice and repair the Rigging that had been damaged by the Enemy's Fire before ſhe did wear?—A. Yes, there were; there were Seamen in all Parts of the Ship knotting and ſplicing, and doing every Thing to comply with the Order the Commander had given.

Q. Under what Ship's Stern of the Van Diviſion of the Britiſh Fleet did the Cæſar paſs, and to the beſt of your Judgment at what Diſtance?—A. I cannot recollect the Name of the Ship, it was the laſt Ship of the Van; and as we were going paſt the laſt Ship, which was the ninth, I ſhould think we were, to the beſt of my Recollection, within two Cables Length, or leſs than that Diſtance.

Q. After the Cæſar had paſſed under the Stern of the Ship, as you ſay ſhe did, do you recollect any Order given by me to the Maſter, to haul the Ship up, and keep her as cloſe to the Wind as her diſabled

Scale would admit of?—A. I heard Captain Molloy ſpeak to the Maſter, and ſay, God bleſs you, Lucky, pay Attention to the conning the Ship, and get her as near to the Wind as poſſible; he repeatedly ſpoke to the Helmſman to mind how they ſteered, for he wanted to get the Ship as much to windward as poſſible.

Q. Do you recollect, almoſt immediately after paſſing the ſternmoſt Ship of the Britiſh Van, ſeveral of the Enemy's Ships in very cloſe Order, each of them giving us their Broadſide as we paſſed?—A. Very well.

Q. Nearly at the ſame Time, or a very little after, did the Cæſar receive any Fire from our own Ships to leeward, miſtaking us for the Enemy?—A. There were ſeveral Shots from our own Ships went between our Maſts, but I do not recollect any that hit us.

Q. Did you hear any Obſervations made to me by the Officers and People ſtationed on the Quarter-Deck, on our being between two heavy Fires, and did I give any, and what Orders, on that Occaſion?—A. No further Obſervations or Orders, but to ceaſe firing, that our own Ships may ſee our Colours; the Enemy fired at us at the ſame Time, and we returned the Fire.

Q. Were any Orders given for the People to lay down, during the Time we were between the two Fires?—A. There was on that Occaſion, when running along the French Line.

Q. Did you hear any Reports made to me of the leaky Situation of the Ship?—A. Yes.

Q. What were the Reports?—A. The Particulars I cannot ſay; I caught at two or three Words that ſhe was leaky; indeed I had heard it before.

Q. Did you hear Lieutenant Bennet ſay any Thing, and what to me about the Leaks?—A. It was from him that I caught thoſe Words.

Q. Be ſo good as to relate thoſe Words, as well as any Converſation that paſſed between Lieutenant Bennett and me, on the Subject of that Report.—A. I have ſaid, I could only get two or three Words; I was not near enough to hear the whole; after Mr. Bennett had made the Report, Captain Molloy frequently looked down, and encouraged the People, ſaying, Come on my Lads! take a good Aim! they wanted no Encouragement, for I never ſaw People fuller of Spirits.

Q. What Part of the Rear of the French Line did the Cæſar ſetuk up with?—A. She fetched up to engage, what I call, cloſe, the third Ship from the Rear, and conſequently engaged the two other Ships.

Q. Do you think, to the beſt of your Judgment, that the Cæſar could have been kept cloſer to the Wind than ſhe really was, conſidering her diſabled State?—A. I do not think it was in the Power of any Man to keep her cloſer in her Situation; at leaſt, every Attention was paid to the beſt of my Judgment.

Q. After the Cæſar had paſſed along the Van Diviſion of the Fleet, as you have deſcribed, and hauled up as you have already ſaid, could I, in your Judgment, have poſſibly puſhed the Cæſar through any Part of the Enemy's Line, as it was my Duty to have done, in Obedience to the Commander in Chief's Signal for that Purpoſe?—A. I have ſaid

ſaid that the Ship was kept as cloſe to the Wind as poſſible, conſequently ſhe could not effect the Purpoſe.

Captain Molloy deſired the Signal for paſſing through the Enemy's Line may be read; the Signal, No. 39, late 34, was then read, as follows:

No. 39, late 34. { Purport, Engage.

If when having the Weather-gage of the Enemy, the Admiral means to paſs between the Ships in their Line, for engaging them to leeward, or being to leeward, to paſs between for obtaining the Weather-gage.

N. B. The different Captains and Commanders not being able to effect the ſpecified Intention in either Caſe, are at Liberty to act as Circumſtances require.

Q. After the Cæſar had paſſed the whole of the French Line, did you ſee any Signal made by the Queen to the Cæſar, and what was it?—A. No, I did not.

Captain Molloy ſaid he ſhould not aſk the Witneſs any more Queſtions to the Twenty-ninth of May.

The Court.

Q. When you fetched up to the third Ship of the Enemy's Line, at what you call a cloſe Engagement, at what Diſtance were you then?—A. I have ſaid that I was no Judge of Diſtance; I beg to refer to my former Anſwer, that I judged from the Grape-Shot going as far over us, as we were from the Enemy.

Q. Were you within the Reach of Muſquetry?—A. Poſſible. Shot. We did not fire Muſquetry.

Q. At that Time can you recollect where the Queen was, when you came into cloſe Action?—A. No, I cannot.

Q. Were any of the Britiſh Van Ships near you at that Time?—A. I could ſee one in a Cloud of Smoke; I did not know what ſhe was; ſhe might have been a two-decker, or three-decker, ſhe was in our Wake; ſhe appeared to be ſo.

Q. Where did you ſee her Form?—A. From the Poop.

Q. Do you know, from your own Knowledge, that the Signal for tacking was made?—A. Yes.

Q. Do you ſpeak, from your own Knowledge, of the Purport of Signal Flags when made?—A. Yes.

Q. You ſay that the Ships of the Rear were firing upon you after you paſſed the Queen Charlotte, do you recollect what Ship it was, or how many?—A. There might be a Couple; I recollect they were firing at us.

Q. Were they on a contrary Tack to you?—A. Yes, they were.

Q. Had the Queen Charlotte tack'd at that Time?—A. I cannot recollect.

Sir Roger Curtis deſired to aſk a Queſtion.

Captain Molloy ſaid he wiſhed to go on with the Examination as to the Firſt of June, ſo as to finiſh, with the Witneſs, the Whole of the Examination.

The Court was cleared, and agreed that as the Mode of conducting the Proſecution was firſt adopted, of hearing the whole of the Evidence as to the Twenty-ninth of May, before the Evidence relative to the Firſt of June was entered upon, that the ſame Mode ſhould be purſued by Captain Molloy in his Defence.

Captain Molloy aſked,

Q. Were you ever in Action before the Twenty-ninth of May?—A. Yes, in ſeveral.

Q. I ſtand here, an accuſed Man, in not having done my utmoſt in Action to defeat the Enemy, which muſt naturally proceed from Cowardice, Negligence, or Diſaffection; did you at any Time ſince you ſerved with me, hear me expreſs any Sentiments of Diſaffection to my King, my Country, or the Government of that Country?—A. No, never; whenever we have met, and the Subject has been on Politics, I never heard ſuch loyal Sentiments expreſſed in my Life.

Q. Did you ever at any Time, from our firſt ſeeing the Enemy on the Evening of the Twenty-eighth May, to the Cloſe of the Evening of the Twenty-ninth, obſerve me in any Manner whatever neglect any Part of my Duty that was incumbent on me as Captain of a Line of Battle Ship, going into Action, and when in Station?—A. No, never; but have ever ſeen a proper Impatience till the Duty was complied with.

Q. As you were ſtationed on the Quarter-deck during the whole of the Action of the Twenty-ninth of May, and was cloſe at my Elbow the whole of the Time, and muſt have had frequent Opportunities of obſerving my Conduct, relate to the Court your Sentiments on my perſonal Conduct, as an Officer and a Man.—A. I ever conſidered Captain Molloy poſſeſſed of true Courage, and a great Taetition.

Q. In what Manner did I generally give my Orders in the Action?—A. In a poſitive, but cool Manner.

Sir Roger Curtis aſked,

Q. You have ſaid that before the Cæſar wore, you had always conſidered her in her Station; did you take Notice of the Queen, your ſecond a-ſtern?—A. I was on the Quarter-deck, but I had an Opportunity once or twice of ſeeing the Ship a-ſtern, and from that I judged that we were in our Station.

Q. Was the Cæſar more to leeward than the Queen at the Time ſhe began to wear?—A. At the Time I ſaw the Ship, we were to leeward of her.

Q. You have ſaid that about the Time of your wearing, the Fore-yard was nearly ſhot in two, the Main-ſtay gone, and the Fore-ſtay alſo, as you believe; did you obſerve theſe ſeveral Circumſtances yourſelf, or did you hear it from the Report of others?—A. I was always on the Quarter-deck myſelf; the Main-ſtay appeared to me to be ſhot in two, as to the Fore yard, I ſaw the Shot take myſelf.

Q. What led you to believe the Fore-ſtay was ſhot alſo?—A. As it appeared from the View I had, the two Ends hanging down.

Q. From

Q. From whence did you make that Obſervation?—A. From the Forepart of the Quarter-deck on the ſtarboard Side.

Q. Was the Fore-ſail then ſet?—A. I cannot charge my Memory to ſay whether it was or not.

Q. You have mentioned the Cæſar as being between two Fires, namely, the Engliſh and French Lines; would ſhe not have been leſs expoſed to the Fires if ſhe had been cloſe to the Enemy's Line?—A. I have mentioned that we were fired at by ſome Ships; certainly we ſhould have been leſs expoſed if we had been from the Fire of ours.

Q. You have deſcribed the Cæſar as running along the Enemy's Line, and as you ſay you only fetched to what you call cloſe Action with the third Ship from their Rear, what Part then of the French Line did you run along?—A. We received the Fire from the Seventh, Sixth, Fifth, and Fourth, to the beſt of my Knowledge, at leaſt they fired at us.

Q. You have ſaid that the Cæſar was kept as cloſe to the Wind as from her diſabled State could be done, not being a Seaman by Profeſſion, how do you know ſhe was kept as near to the Wind as poſſible?—A. When I ſaid ſhe was kept to the Wind as near as poſſible, I ſpoke to the beſt of my Judgment.

Q. The Signals, No. 34, now 39, having been read at the Deſire of Captain Molloy, I would aſk the Witneſs, whether the Words not being able to comply with the Signal, does not imply that every Endeavour ſhould be made to comply with it?—A. It does not admit a Doubt of it, and every Endeavour was made.

Lieutenant James Cleverly, Fifth Lieutenant of the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Did you belong to the Cæſar in the Action of the 29th of May?—A. I did.

Q. Where were you quartered?—A. On the Forecaſtle.

Q. Did the Cæſar lead the Britiſh Fleet, on the larboard Tack, on the 29th of May?—A. Yes, ſhe did.

Q. How did the Cæſar ſail with reſpect to the other Ships of the Fleet, but particularly compared with thoſe of the Van Diviſion on that Day?—A. She ſailed better than the Queen.

Q. Was any Signal made to the Cæſar to make more Sail, when on the larboard Tack?—A. I don't know; I did not obſerve any.

Q. Do you recollect any more Sail being made, and what Sail was made?—A. Yes, I do, the Maintop-maſt Stay-ſail.

Q. Do you recollect any Thing of letting a Reef out of the Main-top-ſail?—A. Yes, I do, they were bouzing tight the reef Tackles, and the Sail ſplit within the Cringle.

Q. How was it ſplit?—A. Split for ſome Diſtance round, within the Lining.

Q. Was another Top-ſail bent?—A. The Sail was immediately clued up, and the greateſt Exertions made to unbend it, and to bring another to the Yard, which was immediately ſet and trimmed.

Q. Did

Q. Did the Cæſar appear to you at this Time to be out of her Station?—A. No, the Queen was as near as poſſible in the Wake of the Cæſar.

Q. During the Time the Top-ſail was unbending and bending, was there a proper Proportion of Sail carried by the Cæſar to keep her in that Station?—A. We rather cloſed with the Queen, but very little.

Q. Was the Main-ſail ſet before the Signal was made to tack?—A. A conſiderable Time.

Q. Was it ſet at the Time we were bending the Top-ſail?—A. I believe not.

Q. At what Time was the Signal made firſt to tack in Succeſſion?—A. If I may be allowed to judge of Time in Action, it was about an Hour and Half after the Van Ship of the Enemy had brought us to Action.

Q. Was that Signal annulled?—A. Yes.

Q. Prior to its being annulled, were any Meaſures taken for tacking the Ship?—A. Yes, Captain Molloy came forward on the larboard Gangway, while I was looking at the Queen, with the Signal out for that Purpoſe, and ordered me to break the Hands off from the Guns, hand down the lee Bow-line, and ſee every Thing clear for going about; I aſked him if he meant to tack under the Main-ſail, he ſaid, moſt certainly.

Q. When the Signal was made the ſecond Time to tack, were any Preparations then made for executing the Signal?—A. Not that I recollect.

Q. Did the Cæſar tack or wear?—A. Wear.

Q. Why did ſhe not tack?—A. The larboard Fore-yard-arm had been very much ſhattered by a Shot, the Main-ſtay gone, the ſtanding and running Rigging very much cut.

Q. Did you take any Steps to be more particularly informed of the Situation of that Yard?—A. I don't recollect that I did.

Q. Did you ſend the Captain of the Forecaſtle, or any other Perſon, to look at it, or was any Report made to you of its Situation?—A. I don't recollect either.

Q. When on the ſtarboard Tack, what Orders did you receive from me, and how was the Fore-yard braced up?—A. From the Length of Time I don't recollect receiving any Orders about bracing up the Fore-yard, but I know it was braced up by the ſtarboard Preventer-brace as much as poſſible, for I had a great Number of Hands on it.

Q. Can a Fore-yard be braced up as ſharp with a Preventer-brace, as with its proper Brace?—A. No, impoſſible.

Q. Why?—A. When the Yard is braced a little up, the brace becomes nearly up and down.

Q. Did you obſerve any Part of the Fore-ſail cut away when the Yard was wounded?—A. Not immediately; not till we got on the other Tack.

Q. How was it then cut?—A. The larboard Leech-rope was cut away, about four or five Feet from the Earing.

Q. What Part of the *British* Van Diviſion did the Cæſar paſs through

through on the ſtarboard Tack?—A. The Eighth from the Cæſar, under her Stern.

Q. At what Diſtance?—A. About two or three Cable's Lengths.

Q. After having paſſed the eighth Ship from the Cæſar, as you have deſcribed, did it appear to you that the Ship was brought to the Wind as cloſe as the Fore-yard was braced, and the diſabled State of the Ship would admit of?—A. Yes, I obſerved us haul up for that Purpoſe.

Q. Did you, in paſſing along the Enemy's Line, obſerve the Foreſail ſet at any Time?—A. Yes, as we were approaching the Rear.

Q. In paſſing along the Enemy's Line, did any Accident happen forward?—A. Yes, the Bumkin-block Strap, and Fore-tack, were ſhot away.

Q. Did the Foreſail in conſequence fly up near the Fore-ſtay?—A. Yes, abreaſt againſt it.

The Court aſked,

Q. Was the Fore-bow-line ſhot away?—A. I don't recollect it was.

Captain Molloy aſked,

Q. Did it appear to you, before the Cæſar wore, that the Fire of the Van Ship of the Enemy was encreaſed or ſlackened upon the Cæſar?—A. Nearly ſilenced.

Q. What Ship of the French Fleet did the Cæſar fetch up with and engage on the ſtarboard Tack?—A. I cannot poſitively recollect.

Q. Did ſhe fetch up and engage with any of them?—A. Yes, as ſoon as ever we had got aſtern of the Eighth of the Britiſh advanced Ships, I think we opened our Fire on a Three-decker.

Q. Do you recollect any Ship to leeward of us firing at us, or over us, after we had paſſed the Queen Charlotte?—A. No; but I recollect, while paſſing the Queen Charlotte, to have ſeen the ſecond Ship aſtern of the Queen Charlotte firing at the Enemy, but not at us.

Q. How many Ships of the French Line do you imagine the Cæſar received the Fire of?—A. I cannot tell exactly what Number, but a great many.

Q. Do you think the Cæſar could have been kept cloſer to the Wind than ſhe was, when running along the Enemy's Line, in the diſabled State ſhe was?—A. No.

Q. Do you think I could poſſibly have puſhed the Cæſar through any Part of the Enemy's Line, as it was my Duty to have done, if the Ship had been in proper Order, on the 29th of May?—A. No, of courſe not; as I have already ſaid, ſhe was kept as cloſe to the Wind as the diſabled State of the Ship would admit.

Q. Did you then, or do you now believe, that from the Time the Cæſar wore, in Conſequence of the Signal to tack in Succeſſion, any Thing was neglected that was neceſſary to be done to repair the Damages the Ship had received when in Action on the ſtarboard Tack, to enable her to cloſe with the Enemy on the ſtarboard Tack; and was there a Poſſibility of our getting nearer to the Enemy than we did, conſidering the diſabled State of the Ship?—A. No.

Q. Were

Q. Were you ever before, and how often in Action, before the 29th of May?—A. In four or five general Actions; in all the general Actions in the Weſt Indies, with Admirals Rodney and Hood, in the Year 1782.

Q. Upon a Review of every Thing that paſſed, from the firſt Moment of our ſeeing the French Fleet, and bringing to your Remembrance the whole of my Conduct, from that Time till the two Fleets ſeparated, after the Action on the 29th of May, can you, as you ſhall anſwer to God, accuſe me in your Conſcience of any *(even the ſmalleſt)* Sign of perſonal Fear?—A. No, but, on the contrary, conducted himſelf like a brave and able Commander.

Q. In the moſt ſolemn Manner, I call upon you to declare, whether in any one Inſtance, to your Knowledge, I did, or neglected to do, any Thing that ſhould beget a Suſpicion of my having wanted Zeal or Inclination to do my Duty to my King and Country in that Action?—A. No.

Q. During the Time the Maintop-ſail was ſhifting, was any other, and what Sail ſet in lieu of it, to keep the Ship in her Station?—A. The Maintop-maſt Stay-ſail.

Q. Did ſhe keep her Station?—A. Yes.

Q. Do you think, on the 29th of May, that the Cæſar was ever ſo ſituated before ſhe wore, as poſſibly to have thrown a Shot into the Queen?—A. Impoſſible, unleſs it had been out of one of the Stern-ports.

Q. After the Cæſar had paſſed the Rear Ships of the Enemy, did you obſerve any Signals made from the Queen to the Cæſar?—A. The Queen paſſed a little to windward, but I did not obſerve her make any other Signal but that of Inability to renew the Action.

The Court aſked,

Q. You being ſtationed on the Fore-caſtle, you muſt have ſeen what was done; was every Exertion uſed, as to reeving the Ropes, and refitting the Rigging, particularly the Braces of the Fore-yard?—A. I did not know the Braces of the Fore-yard were gone; great Exertion was made to put the Ship to rights in every Reſpect, ready to renew the Action.

Captain Molloy aſked,

Q. Was a Main-ſtay got up in paſſing the Enemy's Line?—A. The Meſſenger was got up for a Preventer Main-ſtay, and a Heart ſeized in; and I think I heard Captain Molloy give Orders about ſeizing of it in.

Q. Do you think that the Main-ſail could have been ſet with Safety to the Maſt, on the ſtarboard Tack, when paſſing the Enemy's Line?—A. Certainly not.

The Court aſked,

Q. After you commenced your Fire upon a Three-decker, as you have ſtated, after you paſſed under the Stern of the Eighth Ship, what was the Length of Time before you came a-breaſt of the Queen Charlotte, on the ſtarboard Tack?—A. I cannot recollect.

Q. Do

Q. Do you recollect ſeeing the Queen Charlotte?—A. Perfectly.

Q. At what Diſtance was you from the Queen Charlotte?—A. I think a good half Mile; it ſtruck me ſo at the Time.

Q. Did you continue your Fire until you paſſed the whole of the Rear of the Enemy?—A. To the beſt of my Knowledge we did.

Q. What was the Diſtance from the French Line when you firſt began your Fire on the Three-Decker?—A. I ſhould ſuppoſe three Quarters of a Mile, nearly; I cannot be particular.

Q. What were the neareſt Ships of the Britiſh Van, who were already on the ſtarboard Tack, when you commenced your Fire; and how did they bear?—A. I did not obſerve any on the ſtarboard Tack at that Time.

Q. Before you paſſed the Rear of the Enemy's Line, did you obſerve the Queen?—A. Yes, I did.

Q. How did ſhe bear?—A. On our ſtarboard or weather Quarter.

Q. How far diſtant?—A. I ſhould ſuppoſe nearly a Mile.

Q. Were the Queen and you both firing on the Enemy's Rear Ships at that Time?—A. Yes.

Q. Do you recollect what Ship the Queen was then engaged with?—A. To the beſt of my Recollection, it was about the Sixth Ship from the Enemy's Rear.

Sir Roger Curtis aſked,

Q. You have ſaid that the Cæſar, while upon the larboard Tack, maintained her Station, except cloſing a little to the Queen; was ſhe, about the Time ſhe wore, farther to leeward than the Queen?—A. Rather, if any thing.

Q. You have ſaid, the Cæſar paſſed through the Britiſh Line, under the Stern of the Eighth Ship; do you know any Impediment why the Cæſar, after wearing, could not have paſſed through the Britiſh Line, before ſhe got the Length of the Eighth Ship from the Van?—A. Yes, the larboard Fore-yard arm, about ten or twelve Feet within the Cleets, was ſo much ſhattered by a Shot paſſing through the Yard-arm, that it was impoſſible to think of touching the Brace, as the Yard-arm would have no doubt have given way.

Q. While the Cæſar was paſſing to leeward of the Engliſh Van, until ſhe arrived to the Length of the Eighth Ship, what Courſe did ſhe ſteer?—A. I don't know, as I was never aft to look at the Compaſs.

Q. Did ſhe appear to run a Courſe parallel to the Britiſh Line?—A. Yes, ſhe did.

Q. Was the Cæſar hauled nearer to the Wind, when ſhe did paſs under the Stern of the Eighth Ship, than when ſhe was ſo running parallel to the Line?—A. Yes, a little.

Q. What Impediment was there to her having been ſo hauled nearer to the Wind before ſhe got that Length?—A. I cannot ſay.

Q. You have ſaid, that the weather Preventer-brace would not admit of the Fore-yard being more braced up by it than it was, where did the Preventer-brace lead?—A. Upon the Bowſprit; I cannot tell how far; I cannot ſay the particular Part; I think about two-thirds out.

Q. I aſk you as a Seaman, where they ought to be placed upon the Bowſprit for the Purpoſe of bracing the Yard up by them, as much as may be?—A. I don't know that there is any particular Part for that Purpoſe.

Q. The farther theſe Blocks are placed out upon the Bowſprit, will not the Yard brace up the better?—A. I don't know that.

The Court aſked,

Q. How far out are the Bow-line Blocks ſeized?—A. To the Collar of the Fore-ſtay I think.

Q. How much without them were the Preventer Blocks ſeized?—A. I cannot poſſibly tell.

Sir Roger Curtis aſked,

Q. Suppoſe the leading Blocks of the Preventer Braces had been fixed at the Cap at the Bowſprit End, how much leſs could the Yard be braced up with the Blocks in that Situation, than with the Common Braces?—A. I cannot ſay, I never ſaw it tried.

Q. Suppoſe the Fore ſail of the Cæſar had been haul'd up to eaſe the Fore-yard, might not the Ship be kept cloſe to the Wind under her Top-ſails and Stay-ſails?—A. I ſhould ſuppoſe not, as the ſame Impediment would ſtand good, the Fore-yard could not be braced up.

Q. Where did the Foretop Bow-line Blocks lead in the Cæſar?—A. Near the Cap.

Q. If the Fore-ſail had been haul'd up as before mentioned, would not the Foretop Bow-line have aided the Preventer Brace in bracing the Yard up?—A. I think not; the Bow-line is conſidered to be of little Service, from leading up and down, and the Fore-yard being at the ſame Time braced up as much as poſſible, by the Preventer Brace.

Q. Was the Foretop Bow-line haul'd as much as it could be under theſe Circumſtances?—A. I believe it was.

Q. Suppoſe, when finding the Defects in the Cæſar's Fore-yard, and that the Yard could not be braced up on that Account, that the Fore-ſail, and Foretop-ſail had both been taken off the Ship, might not the Ship have been kept to the Wind, although ſhe would not have gone ſo faſt, under the Jib, Foretop-maſt-ſtay-ſail, Maintop-maſt-ſtay-ſail, and Mainſtay-ſail, with a ſuitable Proportion of After-ſail?—A. I don't think ſhe would have ſteer'd, if ſhe had, but badly, as ſhe always carried a light Weather Helm.

Q. You have ſaid that from the Situation of the Ship, and particularly on Account of her Main-ſtay being gone, that you thought it unſafe to ſet the Main-ſail, I would aſk you, as a Seaman and an Officer, whether a Ship having loſt her Main ſtay by a Wind, would you not rather add to the Security of the Main-maſt, by hauling the Main-tack on board, and bouzing the Bow-line well up, both theſe Ropes leading conſiderably forward?—A. Yes, I think it might, as it blew freſh with a heavy Swell: had any Thing happened to the Lee-braces, or the Bow-lines, and the Ship ſhould have been taken aback, I think the Maſt would have been in great Danger.

Q. Do you know whether the Main ſpring-ſtay was ſhot away, as well as the Main-ſtay?—A. No, I don't know.

Q. When did you firſt know that the Main-ſtay was ſhot away?—A. A few Minutes after the Signal for tacking was annulled.

Q. Was

Q. Was any Thing immediately done for the Security of the Maſt?—A. I believe not.

Q. Would the getting the Main-tackles forward to the Bitheads, on the Fore-caſtle, have been the readieſt Mode of ſecuring the Maſt?—A. Yes.

Q. Was that done in the Cæſar?—A. No.

Q. You have, doubtleſs, in the Courſe of your Service, ſeen very hard Gales of Wind and heavy Seas, and conſequently have obſerved what Sprains and Shocks a Maſt is capable of bearing; was it, therefore, reaſonable to be expected, that the Cæſar's Main-maſt would have been endangered by ſetting the Main-ſail, on the 29th of May, although the Main-ſtay was gone?—A. Yes, I do think the Main-maſt would have been in Danger.

Q. You have ſaid that the Fore-tack, and Bumkin Block, were ſhot while the Cæſar was paſſing the Enemy's Line on the ſtarboard Tack, what was then the Cæſar's Situation, in reſpect to the Queen Charlotte, or any other Ship in the Britiſh Line?—A. I don't recollect to have obſerved any other Ship but the Queen.

Q. How long was it after you paſſed the Queen Charlotte that theſe Accidents happened?—A. I cannot tell.

The Court aſked,

Q. Was there any Interval in the Britiſh Line through which the Cæſar might have been haul'd, had the Fore-yard not been wounded before ſhe did paſs?—A. I cannot ſay poſitively, they were very cloſe together under a preſs of Sail.

Q. At what Time was the Fore-yard ſiſh'd, or otherwiſe ſecured?—A. Immediately after our getting out of Action.

Sir Roger Curtis aſked,

Q. Did you take Notice of the Diſtance there was between the Ship whoſe Stern you paſſed under, and her Second a head?—A. I did not.

The Court adjourned till 9 o'Clock to-morrow Morning.

Thurſday Morning, May 7, 9 o'Clock, A. M. The Court met according to Adjournment,

Lieutenant Benjamin Dickenſon, of the Marines, belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you a Lieutenant of Marines on board the Cæſar, on the 29th of May laſt?—A. I was.

Q. Where were you quarter'd?—A. On the Poop.

Q. Do you remember the Cæſar's Signal to make more Sail, being made, and nearly the Time of its being made?—A. I do recollect the Signal being made, and, as near as I can judge, it was about Half paſt Eight o'Clock in the Morning.

Q. On what Tack was the Fleet at the Time that Signal was made?—A. On the larboard Tack.

Q. Deſcribe to the Court the Situation of the Engliſh Fleet, at

that Time, and particularly the Situation of the Cæsar, with respect to the Queen Charlotte?—A. At the Time the Signal was made, Eight or Nine Sail of the Van formed a distinct Line from the rest, the Queen Charlotte was to leeward, and a-stern with the rest of the Fleet.

Q. If you can, I desire you will name the Ships that formed the Van Division, and how much they were to windward of the Queen Charlotte, and the rest of the Fleet that she led?—A. I do not know the Names of all the Ships that composed the Van; the Cæsar led, next to her was the Queen, after that, I believe, the Russel, Valiant, and Royal George, what other Ships there were I do not know; I suppose the Van Squadron might have been Three Cable's length to windward of the Queen Charlotte, and the other Ships next a-stern.

Q. Were any Steps taken on board the Cæsar to make more Sail, in Obedience to the Signal?—A. Yes, a Reef was ordered to be let out of the Top-sails.

Q. Did any Accident happen in letting out the Reef of the Main-top-sail?—A. Yes, the Top-sail was split by it.

Q. During the Time the Maintop-sail was shifting, was any Additional Sail made to keep the Ship in her Station?—A. Some other Sail was set, I believe the Main-sail, but I am not positive.

Q. With the Sail that was set, did the Cæsar keep her Station as leading Ship?—A. She did.

Q. Did the Cæsar lead the Van Division of the British Fleet into Action, on the Morning of the 12th?—A. She did.

Q. Did the Cæsar engage as close as she could get to the Enemy, and was she as close to the Enemy as any Ship of the Van Division?—A. To the best of my Judgment she did, she certainly was as any other Ship of the Van.

Q. During the Continuance of the Action, on the larboard Tack, was the Cæsar ever so situated that by Possibility she could have fired into or over the Queen?—A. Never, it was impossible.

Q. Do your remember the Signal being made for the Fleet to tack in Succession, and were any Preparations made to tack?—A. I do remember the Signal, and Captain Molloy ordered us upon the Poop to hand down the Braces, and get every Thing ready for going about.

Q. Was the Ship tack'd then?—A. She was not.

Q. Was the Signal annulled?—A. It was.

Q. When the Signal to tack was annull'd, did the Cæsar continue to engage the Enemy?—A. She did.

Q. At the Time the Signal to tack in Succession was again made, did it appear to you that the Cæsar had made any Impression on the Van Ship of the Enemy?—A. It did; she slackened her Fire very fast, and for the last Quarter of an Hour, fired very few Shots indeed, not more than Ten, I believe.

Q. Relate to the Court the Proceedings of the Cæsar, to the best of your Recollection, from the Time of her wearing, 'till she passed the Rear of the Enemy on the starboard Tack, also every Thing that you recollect respecting my Behaviour during that Period.—A. After the Cæsar wore, she ran to leeward of the Van Ships then in Action; after we had passed the Sternmost of them, the French Fleet opened their

their Fire upon us, which we returned, till it was discovered that some of our own Ships to leeward were firing into us, upon which Captain Molloy sent to the Officers to cease Firing, that those Ships to leeward might see our Colours; in this Manner we passed on to the Rear of the French Line, keeping, according to my Judgment, as close to the Wind as the disabled State of the Ship would admit, and receiving an unremitting Fire from the Enemy till we came to the third Ship of their Rear, which Ship we again opened our Fire upon, and continued to engage her, and the other Two Ships of the Rear, till the Queen came up so close that we were obliged to cease Firing; I had an Opportunity of seeing Captain Molloy the whole Time; he appeared, to me to be doing his utmost to get the Ship as near to the Enemy as possible.

Q. Did you make any particular Observations on the Queen, after she and the Cæsar had passed the Rear of the Enemy?—A. She came out of Action very close to us, apparently much damaged.

Q. Did you observe any Signal flying on board the Queen at that Time?—A. I don't recollect any.

Q. What was the Cæsar's Position with Respect to the Rear Ship of the Enemy, at the Time you say you saw the Queen so close to the Enemy?—A. The Rear Ship of the Enemy was far upon our Quarter upon the other Tack.

Q. Were you ever in Action before the 20th of May?—A. I have.

Q. From the Opportunities you had of seeing me during the Course of that Day, I am desirous you should offer to the Court your Opinion of my Behaviour in general, and particularly of my personal Conduct?—A. I saw you during that Day constantly doing your Duty, to the best of my Opinion; I have had the Honour of sailing under Captain Molloy about Sixteen Months altogether, and, in that Time, have never seen him more cool and collected than he was in Action, nor have I ever seen him give his Orders more clear and precise than he did in that Day.

The Court asked,

Q. At the Time you describe the Van of the British Fleet being to windward of the Queen Charlotte, did you see the Queen Charlotte to leeward of those Ships?—A. Not exactly when we were in a Line, but after the Ships wore we passed to windward of the Queen Charlotte; before the Ships were in Action I saw her, but not after the Action began, on Account of the Smoke.

Q. You was quarter'd on the Poop, how was the Queen situated in Respect to the Cæsar, when the Cæsar was engaged with the Van Ship of the Enemy's Fleet?—A. A-stern, right astern.

Q. Was the Cæsar very near the Lee-bow of the Queen at any Time, when engaged on the larboard Tack?—A. Not particularly near that I observed.

Q. Did you take Notice of the Queen's backing her Mizentop-sail?—A. I did not.

Q. What Distance do you suppose the Cæsar was from the Rear of the Enemy's Line, when in Action?—A. About Two Cables and a Half,

a Half, I am not much uſed to meaſure Diſtances at Sea, but ſuppoſe that might be the Diſtance.

Q. Were you within Muſquet Shot?—A. Certainly we were.

Q. Did you uſe them?—A. No.

Q. You have ſaid that the Cæſar was obliged to ceaſe Firing on the Queen's coming up ſo cloſe to her, deſcribe the Situation of the Queen with Reſpect to the Cæſar?—A. The Queen came up upon the Cæſar's Weather Quarter.

Q. Was that the Time that you ſuppoſe you were Two Cables and a Half diſtant from the Enemy?—A. No, it was before that, that I ſuppoſe we were Two Cables and a Half diſtant, the Enemy's Rear Ships were then gone off; the Cæſar's Mizentop-ſail was aback at this Time, the Queen was ranging upon our Quarter, and the Enemy's Ships were going off upon the other Tack.

Q. What Ships of the Enemy's Rear were you engaging at that Time?—A. The Rear Ship.

Lieutenant Thomas Hopper, of the Marines, called in, and ſworn.

Captain Molloy aſked,

Q. Were you a Lieutenant of Marines on board the Cæſar, in the Action of the 29th of May laſt?—A. Yes.

Q. Where were you quartered?—A. On the Poop.

Q. Did the Cæſar lead the Britiſh Fleet into Action on the 29th of May?—A. Yes.

Q. How long was the Cæſar engaged with the Van Ship of the Enemy before ſhe wore?—A. Above an Hour, but I took no Remarks.

Q. Did the Fire of the Cæſar appear to you to have made any Impreſſion on the Ship with which ſhe was engaged?—A. Yes, a great Deal, as ſhe fired but very little, and, for ſome Time none at all; ſhe endeavoured to get her Tacks on board, and ſtand off; ſhe fired but Two when we wore, which convinced me ſhe was in great Confuſion, as ſhe had a good Opportunity to rake us.

Q. After the Cæſar had wore, and paſſed a-ſtern of the Van Ships, deſcribe to the Court, to the beſt of your Recollection, the Proceedings of the Cæſar?—A. After ſhe wore ſhe ſtood along the Eight Sail; after ſhe paſſed the Eighth Ship, ſhe haul'd to the Wind, and the Enemy appeared prepared for her; they opened one of the heavieſt Fires I ever was Witneſs to; we fired on them till Captain Molloy ordered the Firing to ceaſe that they might ſee our Colours, as our Ships to leeward were Firing on us. At this Time I perceived ſeveral Sail, Seven or Eight, of the Enemy, who bore up a little, as if their Line had not been perfect; this brought their Fire much nearer to us; we ſtood on for Five Sail in the Enemy's Rear, one of which was a large Frigate, and appeared to me to be the cloſeſt to us; we back'd our Mizentop-ſail, and engaged them till they paſſed; I then perceived the Queen coming out of the Smoke; as ſhe was a noble Sight, I off'd with my Hat, and cheer'd her, and the Men, as if by an Impulſe, leaped up and cheer'd her alſo. We then, to the beſt of my Recollection, wore, and ſtood after the Queen Charlotte; ſhe was flying

to

to windward, with the Signal out, as I underſtood, for a general Chaſe. Before we came up to the Charlotte I heard Mr. Wheatly, the Firſt Lieutenant, ſay to Captain Molloy, had we not better go down on that diſabled Ship, pointing to one of the Enemy's Ships to leeward; he ſaid no, leave her to ſome of our diſabled Ships, or ſome Words to that Effect, and we will go after the others to aſſiſt the Queen Charlotte; I obſerved, as we ſtood on towards the Queen Charlotte, the Enemy's Van returning; at this Time the Charlotte made our Signal to come under her Stern, we obey'd it; and I recollect Captain Molloy, about that Time, hailing one of the Ships to let us paſs into our Station, and, to the beſt of my Recollection, it was the Tremendous, but I am not very clear; at this Time the Queen Charlotte wore to aſſiſt the diſabled Ships, and we alſo ſtood after the Queen Charlotte pretty cloſe, and ſuſtained all the Fire of the Enemy's returning Van, till we wore with the Queen Charlotte to come upon the larboard Tack.

Q. On what Tack was the Cæſar when ſhe paſſed the Rear of the Enemy?—A. On the ſtarboard Tack.

Q. At the Time the Queen Charlotte wore to come down to the crippled Ships, on what Tack was the Cæſar?—A. When the Queen Charlotte firſt wore to go down to the diſabled ſhips, ſhe came upon the ſtarboard Tack, the Cæſar was then on the larboard Tack, but in Conſequence of the Signal being made to come under the Charlotte's Stern, ſhe came alſo to the ſtarboard Tack.

Q. Before the Cæſar wore from the larboard Tack in the Morning, and was engaged with the Van Ship of the Enemy, was ſhe at any one Time ſo ſituated, in your Opinion, as poſſibly to have fired into the Queen?—A. No, Captain Molloy anxiouſly and repeatedly aſked me, as I ſtood upon the Front of the Poop, how the Queen bore, I told him I thought ſhe was at a very good Diſtance, ſometimes a little to windward, and ſometimes a little to leeward, as it appeared to me in Conſequence of the Man at the Helm eaſing her.

Q. Did it blow freſh, and was there any Swell?—A. It blew freſh, and there was a great Deal of Swell. I remember remarking to the Gentlemen on the Poop, who ſtood next me, that if the Man at the Helm did not keep eaſing the Ship, I was afraid ſhe would carry ſome Thing away.

Q. Were you ever in Action, and how often before the 29th of May?—A. I have ſeveral Times been in Action before, laſt War.

Q. Inform the Court what you thought of my Conduct as Captain of the Cæſar, in the Action of that Day?—A. It appeared to me that he was determined to make the moſt of his Ship for the King's Service, for had he wiſh'd to have ſhunned the Battle, he would have ordered down the Helm; the Stays being gone, and ſeveral of the Shrouds ſhot away, he had nothing to do but giving a good run to the Fore-yard, and I think from my experience in the Service, though I am no Seaman, ſhe would not have engaged again that Day.—He appear'd very pleaſant and cheerful, frequently converſing with me, as I ſtood on the Front of the Poop, there being no Barricading in the Front of the Cæſar's Poop, and therefore nothing to intercept the View.—My Eye was ſeldom or ever off from him, that I might ſee

more

more readily catch his Orders; I saw Men fall near him, but I could not perceive that it altered either his Countenance or his Steps; I believe he acted to the best of his Judgment for the good of the Service.

Q. My Question was intended to obtain your Opinion as to my Behaviour, in point of Example to the Ship's Company, was I collected in giving my Orders, and did I give them distinctly?—A. Very much so.

Q. Do you now, or did you then, according to the best of your Judgment, believe that in that Action I neglected to do any Thing that was in my Power to do, to close with, and defeat the Enemy?—A. I am no Seaman, but do not think Captain Molloy neglected any Thing.

Sir Roger Curtis asked,

Q. You say that after the Cæsar had passed the Eight Ships of the British Van, she was then haul'd to the Wind; do you know why the Cæsar was not haul'd to the Wind after wearing, before she got the Length of the Eighth Ship?—A. The Ship was a good Deal disabled; I perceived the Fore-yard in particular, I do not think it was Captain Molloy's Intention, for I heard him give particular Orders about repairing the Rigging to one Man in particular to jump up, and rouse the Main-brace, to repair the Shrouds that were shot away, and Mizen-stays, and Main-stays, and some Rigging, that I do not recollect now.

Q. When you saw the Queen coming out of the Smoke, as you have before described, what was her Situation with Respect to the Cæsar?—A. She was upon the Cæsar's Starboard Quarter, or nearly so, but I think that the Ship was thrown a little in the Wind on Purpose, that the Men might point the Guns for the last Ship of the Enemy that was passing, so that I may not be quite certain as to the real Situation of the Queen, as after we had done Firing the Cæsar's Head would fall off.

Q. When you first saw the Queen Charlotte, after you had passed the sternmost Ship of the Enemy, what was her Situation?—A. She appeared to me as if she had come through the Enemy's Line.

Q. Upon what Tack was she then?—A. She was upon the Starboard Tack when I first saw her.

Q. Did she Tack, and go upon the same Tack with the Enemy?—A. Yes.

Q. Was it at that Time you saw the Signal for a general Chase flying on board the Queen Charlotte?—A. I think it was, to the best of my Recollection.

Q. Previous to, and about, the Time that the Cæsar wore from the Starboard Tack, was she at any Time more steadily to leeward than the Queen was?—A. I have already said she was in her Station, sometimes a little to windward, and sometimes a little to leeward.

Q. Was she so situated at the Times of wearing?—A. She was.

Captain William Ed. Cracraft, of the Royal Navy, called in, and sworn.

Captain Molloy asked,

Q. Were you First Lieutenant of the Brunswick in the Action on the 29th of May?—A. I was.

Q. Do

Q. Do you recollect the Van of the Britiſh Fleet being engaged with the Enemy, on the larboard Tack, on the Morning of that Day?—A. I believe it was before 12 o'Clock they were engaged.

Q. Do you recollect ſeeing the Cæſar engaged with the Enemy afterwards on the ſtarboard Tack?—A. I do clearly.

Q. Be ſo good as to relate to the Court ſuch Obſervations as you yourſelf made upon the Conduct of the Cæſar, at that Time, together with the general Obſervations of your late Captain and Officers on that Occaſion?—A. I recollect the Cæſar coming down the Enemy's Line, without firing, 'till ſhe came a-breaſt of a Ship ſome ways diſabled; ſhe then back'd her Mizentop-ſail, and kept up a very briſk Fire. I believe it was the Opinion of Captain Harvey, and the Officers, that ſhe was behaving very properly at that Time. I had not an Opportunity of diſtinguiſhing her farther Conduct, as we wore ſhortly afterwards, and came into Action, and my Attention was taken up with the Manœuvres of my own Ship.

Sir Roger Curtis aſked,

Q. You have deſcribed the Cæſar on coming down the Enemy's Line, how many Ships of the Enemy's Line did you ſee her paſs?—A. I can't exactly ſay, it was a Ship in the Rear I ſaw her engaging.

Lieut. Nathaniel Charles Jones, of the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you a Lieutenant of the Cæſar on the 29th of May laſt, and where were you quartered?—A. Yes, I was, and quartered at the eight foremoſt Guns on the Main Deck, and their Oppoſites.

Q. Did the Cæſar lead the Van Diviſion to Action on the Morning of the 29th of May?—A. Yes.

Q. Did the Cæſar engage as cloſe as ſhe could get to the Enemy, and did ſhe get as cloſe as any other Ship of the Van Diviſion did?—A. She did engage as cloſe as ſhe could get to the Enemy, and I believe as cloſe as any Ship.

Q. During the Continuance of the Action on the larboard Tack, was the Cæſar at any Time ſo ſituated that by Poſſibility ſhe could have fired into the Queen?—A. No, unleſs we had got out our Stern-chaſes.

Q. Did the Fire of the Cæſar appear to you to have made any Impreſſion on the Van Ship of the Enemy?—A. Yes, we appeared to have nearly ſilenced her Fire.

Q. Was any particular Damage ſuſtained on board the Cæſar at your Quarters that Day?—A. Yes, I had two Guns ſplit by the Enemy's Shot ſtriking them in the Muzzle, and ſeveral Men wounded, I do not recollect how many.

Q. What Metal were they?—A. 24 Pounders.

Q. Were the Hand-pumps kept at Work before the Cæſar wore—A. Yes, and the Carpenter informed me that the Ship was making a great Deal of Water, and it was neceſſary to work them.

Q. After the Cæſar had wore, and paſſed through the Van Ships of the Britiſh Line, was there any Fire kept up from the Enemy upon the Cæſar?—A. Yes, a very heavy Fire.

Q. Did you receive any Orders by one of my Aid-du-camps to ſecure your People at their Quarters, and what Reaſons were aſſigned to you for their being ſo ſecure?—A. No; you perſonally gave me Orders to ceaſe firing, ſaying, that our own Ships to leeward were firing into us, not been able to ſee us for Smoke.

Q. When the Cæſar got upon the ſtarboard Tack, was any Report made by the Carpenter, or any of his Crew, that the Leaks were gaining faſt upon the Pumps, and were you urged to continue the Pumps hard to work?—A. Yes, the Carpenter came to me, and told me, it was neceſſary to ſet the Hand-pumps to work again: I had broke them off on the Ship's wearing. Seeing Chain-pumps were going below, upon my aſking the Carpenter whether the Chain-pumps would not keep her free, he anſwered me they would not, and that we muſt continue the Hand-pumps at Work.

Q. When the Cæſar opened her Fire again on the Enemy's Line, to what Part of their Line was her Fire directed, and was that Fire kept up briſkly?—A. I believe about the 3d or 4th Ship in the Rear, the Fire was kept up briſkly.

Q. Did the Cæſar continue to engage the Rear of the Enemy until they had all paſſed her?—A. Yes.

Q. Had you any Opportunity of obſerving me during the Action, and did you receive my Orders from me, perſonally, during the Action?—A. Yes, ſeveral Times.

Q. Relate to the Court your Obſervations on my Mode of giving you thoſe Orders, and your Opinion of my perſonal Conduct when in Action?—A. At all Times during the Action Captain Molloy came to the fore Part of the Quarter Deck, or to the after Part of the Gangway, and gave his Orders to me in a clear, diſtinct, Manner, totally free from any Kind of Embaraſſment; as far as I am capable of judging, it was that of a brave and good Officer.

Q. Did you then conceive that I neglected any Thing in my Power to cloſe with, and defeat the Enemy on that Day?—A. No.

Q. After the Cæſar had paſſed through the Van Ships of the Britiſh Line, did it appear to you that ſhe was kept as cloſe to the Wind as the diſabled State of the Fore-yard, Rigging, and Ship in general would admit of?—A. Yes.

The Court aſked,

Q. Do you know of the Main-ſtay being carried away?—A. Yes.

Q. Do you know at what Time the Maſt was ſecured?—A. It was really ſo long ago I cannot recollect, but perfectly recollect the Meſſenger being got up.

Sir Roger Curtis aſked,

Q. You have ſaid that before the Cæſar wore from the larboard Tack, it was impoſſible ſhe could have fired into the Queen, unleſs from her Stern-chaſe Guns; you being ſtationed in the Waiſt at the 8 foremoſt Guns, and engaged in fighting them, could you always ſee the Poſition of the Queen?—A. When we commenced firing, I ſaw the Queen out of the Stern-window, and at all Times, during the Action,

I attended

I attended to the pointing of the Guns at my Quarter, and never ſaw her from thence.

Q. Although you never ſaw the Queen, when pointing the Guns at your Quarter, is it impoſſible that during the Action there might have been ſome of the after-Guns in the Cæſar, that might have borne upon the Queen?—A. No, I do not think it impoſſible, but had ſhe ranged up ſo as to have fired on her from the after-Guns, I think it moſt probable I ſhould have ſeen her out of the Ports.

Q. You ſay that the Cæſar was kept to the Wind, after ſhe paſſed through the Britiſh Line, what Courſe did ſhe ſteer in paſſing along the Britiſh Line before ſhe went through it?—A. Being in the Waiſt I do not know what the Ship's Courſe was, but we hauled to the Wind cloſe under the Stern of one of our Ships, as near to the Wind as the diſabled ſtate of the Ship would admit of.

Q. Do you know why ſhe was not hauled to the Wind in that Manner, before ſhe paſſed to leeward of ſo many of the Britiſh Ships?—A. No; but our Van Ship appeared to be in a very cloſe Line.

Q. Do you know the Name of the Ship under whoſe Stern you did paſs?—A. I heard, but do not know it for certain, that it was the Majeſtic.

Q. Did you particularly notice the Diſtance there was between that Ship and the Ship a head of her?—A. About a Cable's Length.

Q. Do you, upon Reflection, take upon you to ſay that you particularly noticed the Diſtance between the Ship under whoſe Stern you paſſed, and the Ship a-head of her, and that in your Judgment it was about a Cable's Length?—A. Yes, I did particularly notice, and it appeared to me to be about a Cable's Length.

The Court aſked,

Q. Was it from your Quarters you made the Obſervation of the Diſtance?—A. Yes, out of the Ports.

Q. Did you obſerve the Queen paſs through the Britiſh Line?—A. No.

Q. Did you obſerve the Ship a-head of the Ship, under whoſe Stern you paſſed near?—A. No, I was fully employed at the Pumps.

Q. Did you obſerve her at all after ſhe was about, on the ſtarboard Tack, and did you obſerve the Interval ſhe paſſed through?—A. The only Ship I ſaw, after we wore on the ſtarboard Tack, and had paſſed the Van of our Fleet, was the Queen.

Q. What was the Poſition of the Queen from the Cæſar when you ſaw her?—A. She was about a Cable's Length to windward of us, engaging with the Rear Ship of the Enemy; ſhe overtook us juſt as we left off engaging, we ſcarcely had left off engaging

Captain Molloy aſked,

Q. Taking into Conſideration the diſabled State of the Cæſar at the Time ſhe was running to leeward of the Van Diviſion, do you as a Seaman think ſhe could with Safety have attempted to have gone through any Ships of that Diviſion, then on a contrary Tack, without a greater Space to do it in, than you, to the beſt of your Recollection, remember to have then been between any two Ships of that Diviſion?—

A. I do not think ſhe could, as we muſt have hauled ſhort up, cloſe under one of their Sterns, which, had we attempted to do, not being able to brace our Head-yards ſharp up, we muſt have been taken aback.

The Court aſked,

Q. At what Diſtance did the Cæſar paſs to leeward of the Van Ships of the Britiſh Fleet?—A. About half a Cable's Length, or rather more.

Captain Molloy aſked,

Q. Do you think a Fore-yard can be braced as ſharp up with a Preventer Brace, as its proper Brace?—A. No.

Sir Roger Curtis aſked,

Q. Did you not haul cloſer to the Wind when you paſſed under the Stern of the Majeſtic, diſabled as you deſcribe the Cæſar to be, than when you were running down the Van of the Britiſh Line?—A. Yes.

Q. Then why could you not have hauled as cloſe to the Wind before?—A. We ſhould have run a-board ſome of our own Ships.

Q. For what Reaſon more than afterwards?—A. Had we attempted to thwart them, they being in a cloſe Line, we ſhould have thrown them into Confuſion.

Q. Do you know that any of the Van Ships in the Britiſh Line who had been in Action as well as the Cæſar, found it neceſſary to run to leeward of ſo many Ships, before they had hauled through the Britiſh Line?—A. I don't know.

Q. You have ſaid that the Preventer Braces to a Fore-yard will not brace the Yard ſo ſharp up as the Common Braces; if the leading Blocks to the Preventer Braces of a Fore-yard were placed at the Cap of a Bow-ſprit, would not the Purchaſe for bracing that Yard up, then lead as fair for bracing that Yard up as the common Angle of the Main Braces do, for bracing the Main-yard up?—A. No, the Angle's too acute.

Captain Molloy ſaid,

If the Court are not ſatisfied that the Main-ſtay was ſhot away, I will call the Captain of the Main-top to prove it.

The Court, as well as Sir Roger Curtis, ſaid that they were ſatisfied the Main-ſtay was ſhot away.

Lieutenant Edward Sterling Dick'ſon, ſecond Lieutenant of the Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Were you a Lieutenant of the Cæſar in the Action of the 29th of May laſt?—A. I was ſecond Lieutenant.

Q. Where were you quartered?—A. At the 8 after-Guns upon the Main Deck.

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Q. Did the Cæſar lead the Britiſh Fleet into Action on the 29th of May?—A. She did.

Q. Did ſhe appear to you to get as cloſe to the Enemy's Van Ship as ſhe could, and was ſhe as cloſe as any other Ship to the Enemy's Line?—A. I think ſhe was.

Q. Did it appear to you that the Fire of the Cæſar made any Impreſſion on the Van Ship of the Enemy?—A. Her Fire appeared ſlackened ſome Time after we had engaged her.

Q. During the Continuance of the Action on the larboard Tack, do you think that the Cæſar could have fired into or over the Queen?—A. Moſt aſſuredly not.

Q. Had you frequent Opportunities of ſeeing the Queen during the Action?—A. Frequently out of the Ward-room Windows.

Q. During the Action did it appear to you that the Cæſar kept her Station as leading Ship of the Britiſh Fleet?—A. While on the larboard Tack, ſhe certainly did.

Q. Did it appear to you at any Time while we were upon the larboard Tack, that the Cæſar was more to leeward than the other Ships of the Britiſh Van, except the trifling Diſtance that the Man at the Wheel might have given the Ship, by yawing?—A. We were ſome little Diſtance to leeward of the Queen.

Q. Relate the Proceedings of the Cæſar after ſhe had paſſed a-ſtern of the Van Diviſion of the Britiſh Line?—A. After we had paſſed the laſt Ship in that Diviſion, I recollect the Enemy's having opened her Fire upon us; we in return opened our's. Some Time after, it was ſaid that Ships to leeward were firing on us; I received Orders from Captain Molloy, by his Aid-du-camp, to ſtop firing, that the Ships to leeward might ſee our Colours. Some Time after that, Captain Molloy ſent for me on the Quarter Deck, took me to the Weather Side of the Gangway, pointed out five or ſix Ships of the laſt of the Enemy's Line, told me to reſerve my Fire for them, as he was in Hopes we ſhould be very near them; we did, 'till coming nearly abreaſt of them, when our Fire was opened upon them, at the ſame Time receiving a warm Fire from them; we then paſſed through, firing at the laſt Ship of the Enemy's Rear. Firing having ceaſed, I run upon the Weather Gangway to look at the Queen who was then paſſing cloſe to windward of us, the Hands were then broke off from the Guns to go about the Rigging.

Q. At the Time you ſay I took you to the Weather Gangway, did I give any Orders to the Maſter, from the Gangway, and what were thoſe Orders?—A. Not at that Time, I heard you give no Directions to the Maſter.

Q. Did you, at any other Time?—A. Some Time before that, upon ſeeing the Queen hauling nearer to the Enemy, I went to the break of the Quarter Deck to tell Captain Molloy of it; I then heard him call aft, and deſire they would keep the Ship cloſe to the Wind; there was an Anſwer, which I ſuppoſe to come from Haywood, the Man at the Conn, that the Ship was as cloſe as ſhe would lay.

Q. From the Opportunities you had of ſeeing me during the Action, I am deſirous that you ſhould deliver to this Court your Opinion of my Behaviour in general, and of my perſonal Conduct, in particular,

in the Action of the 29th of May?—A. Whenever I had an Opportunity of ſeeing you, you appeared cool and determined, zealous and anxious to get as near the Enemy as poſſible.

Q. At the Time I took you on the ſtarboard Gangway, and told you to reſerve your Fire for the Rear of the Enemy, do you think, in the diſabled State the Cæſar was then, I could have weather'd any one of thoſe Rear Ships?—A. No, I think not.

Q. Did you then think that I neglected any Thing in my Power to cloſe with, and to defeat the Enemy, in the Action of the 29th of May?—A. I know of no Neglect.

Lieutenant Thomas Pye Bennet, late third Lieutenant of the Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the 29th of May laſt?—A. I was.

Q. Where were you quartered?—A. I commanded the lower Deck.

Q. Was the Cæſar engaged with the Van Ship of the Enemy on the 29th of May laſt, on the larboard Tack?—A. She was, very warmly.

Q. Did ſhe get as cloſe to her Opponent as ſhe could get, and did ſhe appear to you to be as cloſely engaged as any one Ship of the Van Diviſion?—A. She certainly was as far as my Obſervation went.

Q. Did the Fire of the Cæſar appear to you to have made any Impreſſion on the Van Ship of the Enemy?—A. I thought a very ſtrong one; for the greateſt Part of an Hour that we were engaged with her, her Fire was very hot, but during about the laſt quarter of an Hour, I do not think ſhe fired more than 8 or 10 Guns, while our Fire was unremitted and inceſſant.

Q. Relate to the Court the Situation of the Cæſar in Reſpect to Leaks, prior to and after ſhe had wore from the larboard to the ſtarboard Tack?—A. While we were upon the larboard Tack, engaging the Van Ship, we received ſome very heavy Shot in our Bottom, ſome of them very low; the Carpenter came to me, and told me, that as the Ship was making Water very faſt, he judged it neceſſary to ſet ſome of the Pumps a going; I referred him to Mr. Jones on the Main-deck, to try what the Hand-pumps would do; but after we wore, and came up on the ſtarboard Tack, our Leaks encreaſed ſo much upon us, that I was under the Neceſſity of ſetting the Chain-pumps to work; we had been pumping a conſiderable Time, when the Captain ſent down to know the State of Things on the Lower-deck; the Anſwer I returned, that all was very well, except that the Ship making Water; we were obliged to keep the Pumps going to keep her free; at that Time we were engaging, and pumping at the ſame Time, at all the Chain Pumps. I had ſent repeated Meſſages up to the Captain of our Proceſs; at laſt I called to the Man in the Well, to know what Water there was, and whether we had gained upon her: his Reply was, we have four and half or five Feet Water, either one or the other, and that the Ship had gained upon us, within the laſt Quarter of an Hour,

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eighteen Inches, I think it was eighteen Inches, it was near it; finding that to be the Caſe, I judged it proper to go to the Quarter-deck, and acquaint the Captain of it myſelf; when I had told him, his Anſwer was, well, damn my Blood, I can't help it, I muſt do my Duty, I will go on by God, but why do you ſpeak ſo loud, you will diſpirit the People; I told him I was not conſcious of ſpeaking ſo loud, as I was deafen'd by the inceſſant Fire of the Guns below. I then repaired to my Quarters, and to the Pumps.

Q. During the Time, or Times, that you had any Opportunity of ſeeing me during the Action on the 29th of May, I beg you to relate to the Court your Opinion of my perſonal Conduct?—A. Juſt as we were going to engage, Captain Molloy came down on the lower Deck, and exhorted the Men to be very cool and collected, and by no Means to throw away their Shot, and he appeared to me to be very cool and determined himſelf; when I went upon Deck, as I have related, he appeared to me to be very anxious to get up to the Enemy's Ships that were to windward, and I ſaw nothing but a Deſire for the Cæſar to do her beſt.

William Holmes, the Carpenter, called in again.

The Court aſked,

Q. Upon your former Evidence you have ſaid, that there were three Feet Water in the Hold before the Hand Pumps were ſet to work; you will acquaint the Court whether you meaſured the Well?—A. No, I truſted to the Report of the Man in the Well, he reported the Quantity of Water from Time to Time.

Q. Did you make any Application for pumping, until you had three Feet Water in the Hold?—A. No.

Q. Was the Ship leaky before ſhe came into Action?—A. Not the leaſt, ſhe was as tight as any Ship in the World ever was.

Q. How long was it before the Ship was cleared?—A. Towards the Evening, the Chain Pumps were kept at work till about ſix o'Clock, or near Sun-ſet.

Q. How many Shot-holes did you ſtop between Wind and Water?—A. Seven.

Lieutenant Edward Hodder, ſeventh Lieutenant of the Cæſar, called in and ſworn

Captain Molloy aſked,

Q. Were you a Lieutenant of the Cæſar in the Action of the 29th of May?—A. I was, and quartered on the Lower-deck.

Q. Did it appear to you, at any Time during the Action, that I neglected to do any Thing in my Power to cloſe with, and defeat the Enemy on that Day?—A. It did not.

Q. Did the Fire of the Cæſar appear to you to have made any Impreſſion on the Van Ship of the Enemy, when on the larboard Tack?—A. It appeared to me to have made a very conſiderable Impreſſion on her: I ſaw her Rigging and Geer forward ſhattered and hanging down, her Bowſprit Shrouds hanging down to the Water, and

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her Main Rigging ſhattered and ſtoppered; and I obſerved a Man in her Main Rigging, whom I ſuppoſed had been ſtoppering ſome of the Shrouds that had been ſhot away, and I pointed and fired the after-Gun, on the Lower-deck for that Ship's Hull, juſt under the Main-chains, with the Hope, if the Shot roſe, that it might ſtrike or ſhake that Man out of the Rigging; I obſerved ſix or ſeven of her Shrouds to be ſtoppered; I ſaw the Knots, that I ſuppoſed were the Knots of the Stoppers, and a vaſt Number of Shot-holes through her Sails.

Q. Before the Cæſar went into Action, did you ſee me on the Lower-deck, and what Orders did I give you, and what Converſation had I then with the Ship's Company?—A. I obſerved you on the Lower-deck, but do not recollect any Orders that were given me, but found you encouraging and cheering the Ship's Company to do their Duty.

Q. What did the People do when I came up the Ladders?—A. Some of the People cheered, but am not ſure that the Cheer became general on the Lower-deck.

Q. Did it appear to you I did every Thing that was incumbent for me to do, as Captain of the Cæſar, in the Action of the 29th of May?—A. As far as came within my Obſervation you did.

Lieutenant John Miller Ebden, ſixth Lieutenant of the Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Were you a Lieutenant of the Cæſar in the Action of the 29th of May, and where were you quartered?—A. Yes, I was, and quartered on the Lower-deck forward.

Q. Was the Cæſar on that Day engaged with the Van Ship of the Enemy?—A. She was.

Q. Did the Fire of the Cæſar appear to you to make any Impreſſion on her?—A. Yes, it did, after engaging for nearly an Hour and a half, perceived her Fire ſilenced.

Q. After the Cæſar had wore, and came to on the ſtarboard Tack, were not all the Pumps of the Lower-deck put to work?—A. Immediately on the Cæſar's wearing, Lieutenant Bennett deſired me to ſend Men from my Quarters to ſpell the Pumps, as the Ship was gaining faſt on us; I went aft, and aſked the Man in the Well what Water was in the Ship: he told me there were four Foot, and the Ship was gaining very faſt: I at this Time received a Meſſage from Captain Molloy to ſend the Fore-caſtle Men from my Quarters to aſſiſt in knotting and ſplicing the Rigging, and to ſend ſome Hands to get the Meſſenger up for a Main-ſtay.

Q. Did it appear to you, that prior to, or in the Action of the 29th of May, I neglected any Part of my Duty that was incumbent on me, as Captain of the Cæſar?—A. Prior to the Action I think not; in the Action I never ſaw Captain Molloy, I received many Meſſages from him reſpecting the pointing the Guns.

Q. What Meſſages?—A. The firſt Meſſage was, that the Guns had too much Elevation, the Shot was going over the Enemy's Van Ship.

Ship: Shortly afterwards I ſent Mr. Fowell on Deck to Captain Molloy, to aſk how our Guns were then pointed; he came back, and ſaid our Fire was then well directed, and Captain Molloy deſired us to keep up a briſk Fire.

Captain Molloy ſaid,

As the reſt of my Witneſſes (who are no leſs in Number than the Cæſar's whole Ship's Company), can only prove ſuch Points as have already been ſpoken to by the Witneſſes that have been examined, I think it would be unneceſſary to trouble the Court with any thing further, in Defence of my Conduct, on the 29th of May; however, as it becomes me to be particularly careful, I will beg the Indulgence of the Court, to be allowed the Remainder of this Evening to reviſe the Minutes, in order to ſee if any Thing already given in Evidence requires Explanation.

The Court ſaid they had no Objection.

Half paſt Two o'Clock the Court adjourned till To-morrow Morning 10 o'Clock.

Friday Morning, 10 o'Clock, the Court met according to Adjournment.

Mr. John Fillmore, Gunner of his Majeſty's Ship Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Were you Gunner of the Cæſar on the 29th of May laſt?—A. I was.

Q. Relate to the Court the Damages ſuſtained in your Department, on that Day?—A. Two 24 Pounders ſplit; and rendered unſerviceable by the Enemy's Shot, and one 12 Pound Carronade wounded.

Q. What became of thoſe two 24 Pounders?—A. They were thrown over board by your Order.

Mr. William Bruce, Maſter of his Majeſty's Ship Phæton, called in and ſworn.

Captain Molloy aſked,

Q. Were you Maſter of the Phæton in the Action of the 29th of May laſt?—A. Yes.

Q. Where was the Phæton ſituated, with reſpect to the Britiſh Fleet?—A. To leeward of the Van of the Britiſh Fleet.

Q. Did you make any Obſervations on the Conduct of the Cæſar that Day, while engaged on the larboard Tack?—A. Yes, I took Notice, that ſhe kept up an excellent Fire, equal, if not ſuperior, to any of the Ships of the Van that were engaged.

Q. Were thoſe the only Obſervations you made in the Courſe of that Day, on the Conduct of the Cæſar; and did any Converſation paſs between you and Captain Bentinck on that Subject?—A. I took Notice when ſhe was engaged with the Van, that ſhe was in ſo thick a

Q. Cloud

Cloud of Smoke, that we thought ſhe had been blown up; and after ſhe was engaged in the Rear, we obſerved one of the Enemy's Line of Battle Ships loſe her Foretop-maſt, which we ſuppoſed was by the Fire of the Cæſar; no Converſation paſſed between Captain Bentinck and me.

The Court aſked,

Q. Where was the Phæton placed at that Time?—A. In the Beginning of the Action we were to leeward of the Van Diviſion, about the Fourth or Fifth Ship, and we wore about the ſame Time the Cæſar did; I never ſaw the Cæſar again till ſhe was engaged in the Rear; we were then to leeward of the Engliſh Line, at about Half a Mile Diſtance.

Sir Roger Curtis aſked,

Q. How far diſtant was the Cæſar then from you?—A. About Two Miles and an Half; I cannot exactly aſcertain the Diſtance.

The Court aſked,

Q. In what Direction?—A. She was right to windward of us upon the Beam.

Q. A-breaſt of what Ship were you in the Rear at that Time?—A. I cannot ſay; I believe it was about the Fourth or Fifth Ship of the Engliſh Line; we were running along the Line; we were paſſing it very quick.

Q. You ſay that you wore from the larboard Tack about the Time that the Cæſar did; in paſſing to leeward of the Britiſh Van, did you take Notice of the Diſtance that theſe Ships might be from each other?—A. I did not.

Q. Where did the Phæton paſs through the Britiſh Line?—A. We run to leeward of the Engliſh Line.

Q. What Diſtance do you ſuppoſe there was between the Rear of the Britiſh Line and the Enemy?—A. I ſuppoſe about three Miles; they were not within Gun-Shot.

Sir Roger Curtis aſked,

Q. When you obſerved the Cæſar engaged with the Rear Ships of the Enemy, as you have before mentioned, were you then paſſing to leeward of the Rear Ships of the Engliſh Line?—A. Yes.

Q. Then the Obſervations you made upon her were through the Intervals between theſe Ships.—A. Yes.

Sir Andrew Douglas, Knt. called in again.

Captain Molloy aſked,

Q. Was the Cæſar's Signal made to come within Hail of the Queen Charlotte on the 31ſt May?—A. I do not remember that the Signal was made, but the Cæſar was within hail of the Queen Charlotte, and I hailed her.

Q. Relate to the Court the Subſtance of the Commander in Chief's Orders delivered to me through you.—A. There was a Probability *of bringing the Enemy's* Fleet to Action that Afternoon, the Signal was

was made to form the Line of Battle upon the larboard Line of bearing, inſtead of keeping the Wind to form it; the Admiral's Intention was to do it as he approached the Enemy, ſteering large for that Purpoſe. That there might be no Miſtake, as the Cæſar paſſed near us, the Admiral deſired me to explain his Intention to Captain Molloy, in order that he, as the leading Ship, might ſtand out a ſufficient Diſtance upon the larboard Side of the Queen Charlotte, to make Room for the Ships that were to take their Stations between her and the Cæſar.

Sir Roger Curtis ſaid,

A Queſtion having been propoſed to Sir Andrew Douglas, not referring to either of the Days upon which the Charges are founded, and as I am now ignorant for what Purpoſe Captain Molloy has propoſed this Queſtion, I humbly lay my Claim before the Court, that I may be hereafter permitted, if neceſſary, to aſk ſuch Queſtions of Sir Andrew Douglas as may relate to that Queſtion.

The Court was cleared, and agreed, that when the Application of Captain Molloy's Queſtion, and Sir Andrew Douglas's Anſwer thereto ſhall be explained, that Sir Roger Curtis ſhall be at Liberty to croſs-examine Sir Andrew Douglas thereto.

The Court was again opened, and Sir Andrew Douglas being called in,

Sir Roger Curtis aſked,

Q. At the Time you delivered this Meſſage to the Cæſar, by the Command of the Admiral, had you previouſly heard his Lordſhip expreſs any Sentiments of Diſapprobation of the Conduct of Capt. Molloy on the 29th of May?—A. Yes, I had to me.

Captain Molloy produced the Gazette, publiſhed by Authority, dated June 21, 1794, and deſired a Paragraph of Admiral Earl Howe's Letter to Mr. Stephens, ſupplementary to his Lordſhip's Letter of the Second of June laſt to be read, which was read as follows:

"It could not be for ſome Time ſeen, through the Fire from the "two Fleets in the Van, to what Extent that Signal, namely, the "Signal for paſſing through the Line of the Enemy's Fleet, was com-"plied with; but as the Smoke at Intervals diſperſed, it was ob-"ſerved that the Cæſar, the leading Ship of the Britiſh Van, after "being about on the ſtarboard Tack and come a-breaſt of the Queen "Charlotte, *had not kept to the Wind*, and that the appointed Move-"ment would conſequently be liable to fail of the purpoſed Effect."

Captain Molloy then produced Earl Howe's additional Inſtructions, and deſired a Paragraph to be read, which was read as follows:

"But although it is ſo generally meant, that the Captains ſhould "be guided by the Motions of the leading Ships, and their Seconds "a-head in their reſpective Columns, for preſerving the neceſſary "Regularity in the Conduct of the Fleet, yet if it ſhould happen

" that either of theſe omit to put in Stays in due Time, when the " Fleet is to tack in Succeſſion, or ſhould otherwiſe fail to keep their " Station, their Seconds a-ſtern are not to be miſſed, neither in " Order of ſailing, or of Battle, by ſuch Examples of Inattention."

Captain Molloy here cloſed the Evidence on his Defence, as to the 29th of May.

Lieutenant Wheatly called in again.

Captain Molloy aſked,

Q. Where were you quartered on board the Cæſar in the Action of the Firſt of June laſt?—A. On the Quarter-deck.

Q. Was the Cæſar the leading Ship?—A. Yes.

Q. When in Line of Battle a-head, was ſhe the weathermoſt Ship?—A. I ſhould imagine ſo, for if ſhe tacked ſhe muſt weather the other Ships.

Q. Did you take Notice of the Bellerophon when firſt ſhe began to engage?—A. Yes.

Q. At the Moment ſhe began to engage, how was the Cæſar with reſpect to her?—A. To the beſt of my Recollection, ſhe was about a Point before the ſtarboard Beam of the Cæſar.

Q. How was the Cæſar then ſteering?—A. We were then ſteering down upon the Enemy's Fleet, our Head pointing to the Quarter of the Second Ship in the Van of the Enemy.

Q. Did the Cæſar begin to engage the Enemy as ſoon as the Bellerophon did, or how long after her?—A. She did not begin ſo ſoon as the Bellerophon, but how long after I cannot poſitively ſay; it might be between Five and Ten Minutes.

Q. Did the Cæſar receive the Fire of the Enemy before ſhe opened her Fire, and backed her Maintop-ſail?—A. Yes, and ſeveral Shot ſtruck her.

Q. Was any Solicitation made to me by the Officers on the Main-deck, for Permiſſion to open her Fire before we did, and if thoſe Solicitations were made to your Knowledge, what was my general Anſwer to them?—A. I heard the Officers ſeveral Times aſk for Permiſſion to fire, particularly Mr. Jones; Captain Molloy's Anſwer was, No; we will get cloſe down.

Q. Did you hear me give any, and what Directions to the Maſter, when paſſing by the Bellerophon?—A. I heard, when running down, you ordering the Maſter to run the Cæſar down on board the Van Ship of the Enemy.

Q. How was the Cæſar ſituated with reſpect to the Van Ship of the Enemy, after the Time ſhe brought to to engage?—A. Upon her weather Quarter.

Q. At the Moment of bringing up was ſhe any Thing, and how much, farther from the Enemy than the Bellerophon?—A. At that Time I did not obſerve the Bellerophon, nor did I ſee any Thing of her afterwards, till ſhe was pointed out to be upon our weather or larboard Quarter.

Q. Was the Second Ship of the Enemy's Van open to the Fire of the Cæſar, at the Time the Cæſar brought up to engage, and did the

Cæſar

Cæſar fire at her, or was ſhe confined to her proper Opponent, the Van Ship of the Enemy?—A. Moſt certainly ſhe was; I ſaw ſome of the Guns on the Quarter-Deck pointed at her, the others I can ſay nothing about.

Q. Did the Cæſar, during the whole of the Action, appear to you to have received the Fire of the two Van Ships of the Enemy? —A. She appeared to me to have received the Fire of both Ships, at Times, but for the whole Action I cannot pretend to ſay that ſhe did.

Q. At what Period of the Action was the Cæſar at the greateſt Diſtance from the Enemy?—A. At the Time the Rudder was choaked.

Q. At the Time you ſtate the Cæſar to have been at the greateſt Diſtance from the Enemy, ſuppoſe the Bellerophon to have been drawn forward a-breaſt of the Cæſar, how much nearer to the Enemy do you think ſhe would have been than the Cæſar was?—A. I don't know, for I did not ſee her, ſhe might have drawn up between us and the Enemy.

The Court aſked,

Q. From the Time you began to engage, until the Time you ſaw the Bellerophon on your larboard Quarter, what Length of Time was that?—A. It was a conſiderable Length of Time, for it was after the Rudder was cleared, and we had run down cloſer to the Enemy.

Q. During that Length of Time did you not conſider it your Duty to look a-ſtern, for fear the Bellerophon might have run on board you?—A. As there were People on the Poop ſtationed to obſerve Signals, and give every Information to the Captain reſpecting the Situation of the Admiral, I did not think it neceſſary for me to go upon the Poop.

Captain Molloy aſked,

Q. Did the Van Ship of the Enemy ever ceaſe firing during the whole of the Action on the Cæſar?—A. I think not.

Q. Did the Bellerophon at any one Period of the Action, even while the Rudder was fixed, get immediately upon the Cæſar's Lee-beam, or between the Cæſar and her Opponent?—A. No, had ſhe been there I muſt have ſeen her.

Q. Do you believe that at any one Period of the Action that the Bellerophon was ſo far advanced upon the Cæſar, as by Poſſibility the Cæſar could have fired into that Ship?—A. I think not.

Q. Did the Cæſar, during the whole of the Action, ever ceaſe firing at the Enemy, except for the Purpoſe of letting the Smoke clear away, that ſhe might the better diſcern the Object?—A. They partially left off, but not the whole of them.

Q. For what Purpoſe was it left off?—A. To obſerve the Enemy.

Q. Did you ſee the Signal fly on board the Bellerophon more than once, for the Cæſar to come into cloſe Action, or did you ſee it at all? —A. I did not ſee it at all.

Q. Did you hear of its being made, and its being anſwered from the

Cæſar?

Cæſar?—A. It was reported from the Poop that our Signal was out on board the Bellerophon for cloſe Action, and you ordered it to be anſwered.

Q. What was the particular Situation of the Cæſar at that Time? deſcribe it to the Court.—A. To the beſt of my Recollection it was at the Time the Rudder was choaked; I can't deſcribe the Situation of the Rudder, as I did not ſee it.

Q. Was the Ship, from Reports made to me, capable of obeying that Signal at the Time?—A. She certainly was not, as they could not move the Wheel.

Q. Relate the Proceedings of the Cæſar during the Time the Wheel was in that Situation, immoveable.—A. She continued in Action with the Enemy, and I obſerved in my former Evidence, that we rounded in the Weather-fore and Foretop-ſail Brace, to prevent her falling off.

Q. Did you make any Obſervations upon my Conduct, during the Time the Wheel was in the Situation you have deſcribed?—A. Yes; you appeared to be very much hurt at the Accident, and was very anxious till it was reported clear.

Q. When it was reported clear, what was my Conduct then, and what Orders did I give?—A. You exclaimed, thank God! and ordered the Maſter to put the Helm a-port, and the Foretop-ſail to be filled, to run cloſe down upon the Enemy, who had increaſed their Diſtance from us, while the Helm was immoveable.

Q. Did the Cæſar go down cloſe upon the Enemy upon that Order being given, and make any Impreſſion upon her?—A. Yes, ſhe did.

Q. Did you hear the Officers on the Poop call to me that the ſecond Ship of the Van was laying under our Lee quarter, and raking us?—A. I heard Mr. Hopper ſay there was a Ship under our Lee-quarter raking us, but what Ship I did not hear mention.

Q. Did you hear me make any Obſervation to the Officers upon the Poop, when they told me the Ship was raking?—A. I can't recollect what Obſervations you made at that Time.

Q. You have ſaid that the Cæſar did make an Impreſſion upon the Van Ship; what Impreſſion did ſhe make?—A. She bore up out of the Line, and it ſtruck me that we had beat her out.

Q. Did you hear me aſk the Officers of the Poop, prior to the Van Ship of the Enemy bearing away, where is the Bellerophon? and more than once, repeating it quickly?—A. Yes.

Q. What was their Anſwer?—A. Mr. Dickenſon, a Lieutenant of Marines anſwered, that he was afraid ſhe was diſhed, for ſhe had hauled a cloſe Wind.

Q. What did I ſay to you upon that Report being made to me upon the Poop?—A. I do not recollect your making any Obſervation, until ſhe was pointed out to be upon the Weather-quarter.

Q. When ſhe was ſo pointed out to be on the Weather-quarter, what Obſervations did I then make to you?—A. I jumped upon one of the Guns, and pointed her out on our Weather Quarter, the Cæſar being then ſteering a Point or ſo from the Wind, and Captain Molloy ſaid, if ſhe had not been a Flag-ſhip, he would throw out her Pendant to cloſe.

Q. At

Q. At the Time you ſay I told you that if it had not been a Flag-ſhip, I would have made her Signal, was not the Cæſar then engaged with the Van Ship?—A. She was.

Q. When the Van Ship had wore, did the Cæſar engage the ſecond Ship of the Enemy?—A. Yes.

Q. Did ſhe alſo wear?—A. Yes, ſhe bore up, and run to leeward as much as I ſaw of her.

Q. To what did you and the Officers on the Quarter-deck attribute the Cauſe of thoſe Ships bearing up at that Time?—A. From the tremendous Fire they received from the Cæſar.

Q. When thoſe Ships bore away, relate to the Court, to the beſt of your Recollection at this Diſtance of Time, the then Situation of the Cæſar, with reſpect to her Maſts, Sails, and Rigging?—A. From what I can recollect the Mizen-maſt was ſo badly wounded, that we were afraid of its going over the Side, the Mizen-yard was likewiſe wounded, the Croſs Jack-yard and Mizentop-ſail-yard, ſeveral of the Shrouds cut, the exact Number I can't aſcertain; a great Deal of our running Rigging gone, ſeveral Shot, four or five, I don't recollect which, in the Main-maſt, and our Foretop-ſail-yard on the Cap, the Ties ſhot away.

Q. Was the Main-ſtay ſhot away?—A. Yes, it was.

Q. When the two Van Ships of the Enemy bore away, did you ſee any Signal for the Cæſar from the Bellerophon, to chace them?—A. No, I did not.

Q. Did you hear of any ſuch Signal being made, and reported to me?—A. No.

Q. If it had been ſeen and reported to me, could the Cæſar in the Situation you have deſcribed her to the Court to be in, have chaced?—A. I think not.

Q. Did the Cæſar immediately bear up after thoſe two Ships, and endeavour to follow them, and by that Means bring her Broadſide to bear on the third Ship of the Enemy?—A. Yes, we did, and got very cloſe to the third Ship.

Q. Upon my mentioning to you our Inability to follow thoſe Ships, what did I tell you my Intention was?—A. After the Main and Mizen-maſt of the third Ship went over the Side, it was reported that ſhe had ſtruck; you ordered the Men to deſiſt firing, and ordered the Maſter to run you down, and clap you cloſe on board a three-deck Ship that was to leeward, engaging the Royal Sovereign.

The Court aſked,

Q. What became of the two Van Ships of the Enemy that had bore up?—A. The laſt Time I ſaw them to notice them, they were going away with the Wind, either on the ſtarboard Beam or abaft it, I am not certain which.

Q. Were they then to windward of the Britiſh Line?—A. At that Time there was no Line.

Q. Were they to windward of the Body of the Britiſh Fleet?—A. I think they were to windward of more Ships than they were to leeward of, but of that I am not certain.

Q. Where

Q. Where was the Bellerophon at that Time?—A. I ſaw her to windward of us, with her Foretop-maſt gone.

Q. Was ſhe nearer thoſe two Van Ships than you?—A. No, ſhe was to windward of us, and they were to leeward.

Captain Molloy aſked,

Q. Was it the Fore and Maintop-maſt of the Bellerophon?—A. I thought the Fore; it was one of her Topmaſts, I can't be certain.

The Court aſked,

Q. At the Time the Bellerophon's Topmaſt was gone, and to windward of the Cæſar, were the French Ships then on the ſtarboard Tack?—A. They were rather on the ſtarboard Tack.

Captain Molloy aſked,

Q. Did the Cæſar go down to that Three decker, engaged with the Royal Sovereign, and did ſhe fire at her?—A. She run down, and fired a few Guns, when the French Ship bore up, and run to leeward.

Q. To where did ſhe go?—A. She ran down to leeward among ſome other French Ships.

Q. Under what Sail did the Cæſar go down to that French Three-decker?—A. We dropped our Fore-ſail.

Q. Did the Cæſar haul up that Fore-ſail, or alter her Courſe, until that French three-decker had run to leeward to ſome other Ships of their own Fleet?—A. No, till ſhe had run to leeward.

Q. Did the Royal Sovereign chace that Three-decker after the Cæſar had hauled her Fore-ſail up?—A. I did not ſee her chace.

Q. Did you obſerve any Signals or Pendants flying on board the Royal Sovereign at the Time the French Three-decker bore away from us?—A. No, I did not.

Q. Do you remember ſeeing the Valiant at that Time, and if you do, deſcribe her Situation?—A. I recollect ſeeing the Valiant, but I was ſo buſy in getting the Rigging repaired, that I did not pay much Attention to her.

Q. After the firing had ceaſed in the Cæſar, did you come up to me with any Meſſage in the Name of the Officers of the Ward-room?—A. When the Action was over, the Maſter at Arms came to me to know if the Fire ſhould be lighted, and he mentioned ſomething about the People not having any Thing to eat, but what I don't know exactly; I turned round to Captain Molloy, and aſked him if the Fire was to be lighted.

Q. What did I ſay to you?—A. By no Means, as we ſhall want the Powder filled, as he was certain the Action would be renewed as ſoon as poſſible: he knew Lord Howe ſo well, he would not let thoſe Ships eſcape.

Q. Were the Gunner and four Lieutenants directed to complete the Magazine as quick as poſſible?—A. Yes.

Q. Do you think that I did my utmoſt Endeavours to take a proper Poſition for engaging the Enemy, and for defeating them, as far as the Cæſar could effect thoſe Purpoſes?—A. I think from the Reaſons you gave me, that you did.

Q. What

Q. What Reaſons?—A. Reſpecting running to leeward of the Ship.

Q. State to the Court your Obſervations of my perſonal Conduct as a Man, during the Firſt of June?—A. You appeared to me perfectly cool and collected; your Orders were given with great Preciſion, and you appeared to be very zealous to do your utmoſt to defeat the Enemy.

Q. Did I aſſign any Reaſon to you why, as leading Ship of the Fleet, I did not go between the two Van Ships, and engage them to leeward?—A. Yes, you obſerved as there was no Ships a-head of her, and you was to run down under her Stern, the Ship would have ſuch freſh Way that ſhe would ſhoot out a-head of her, and you would not be able to annoy her ſo much, as by engaging her on the Weather Quarter.

Q. Do you recollect how many Reefs were in the Cæſar's Top-ſails on the Firſt of June, when going into Action?—A. No, I do not; but I recollect our letting a Reef out of the Topſails as we run down, when it was reported that the Signal was out for the Van to make more ſail.

The Court aſked,

Q. Did the Cæſar fire at the three-deck Ship after the Fore-ſail was hauled up?—A. No.

Sir Roger Curtis aſked,

Q. You ſay that when the Bellerophon began to engage, that the Bellerophon might be about a Point before the Cæſar's Weather-beam; was the Cæſar then in her Station in the Direction the Ships were then running down to bring the Enemy into Action?—A. If ſhe had been exact in her Station, I ſhould ſuppoſe the Bellerophon would have been rather abaft than before the Beam.

Q. What do you eſteem the Cæſar's Station to have been, running down in that oblique Direction?—A. To keep the Line of bearing as nearly as poſſible with the Bellerophon, on the larboard Tack.

Q. To have kept the Line of bearing, ſhould not the Cæſar have been rather upon the larboard Bow of the Bellerophon?—A. I think ſhe ſhould.

Q. While the Tiller remained immoveable, and the Sails were backed in the Manner you deſcribed in your former Evidence, did not the Cæſar conſequently fall a-ſtern?—A. She muſt have fallen a-ſtern a little no Doubt, in that Situation.

Q. Having ſo fallen a-ſtern, and as you have ſaid that the Action was continued on board the Cæſar at Times while the Sails were ſo a-back, might not the Bellerophon in Conſequence have been in ſuch a Situation that it was poſſible the Cæſar might have fired into that Ship?—A. If the Bellerophon had been ſo far a-head that our Guns could bear upon her, I, from the Quarter-deck, muſt have ſeen her; but as I did not, I think ſhe could not be in that Situation.

Q. You have ſaid that during the Action you partially left off firing to obſerve the Enemy; when Ships are cloſe engaged with each other, is there any Neceſſity to leave off firing in order to ſee your Opponent?—A. No.

Q. You have ſaid that after the Tiller became ſerviceable, Captain Molloy directed the Cæſar to be ſteered cloſe down along-ſide the Enemy, what Ship of the Enemy was the Cæſar carried cloſe down to?—A. The Weather or larboard Quarter of the Van Ship.

Q. At what Diſtance to the beſt of your Judgment, was you from that Ship?—A. To the beſt of my Judgment we appeared to be about a Cable and a half.

Q. You have ſaid it was reported from the Poop that there was a Ship raking the Cæſar, did you ſee that Ship?—A. Not exactly at that Time I did not ſee her; I ſaw her juſt afterwards upon the Quarter, firing at us; I did not myſelf call it raking, ſhe was not far enough a-ſtern for that.

Q. You have ſtated that upon the Bellerophon's being ſeen on the Cæſar's larboard Quarter, that Captain Molloy declared that if ſhe was not a Flag-ſhip, he would make her Signal to cloſe; when did this happen?—A. A conſiderable Time before the Action was over.

Q. Was it before the Van Ship of the Enemy bore away?—A. Yes.

Q. When the Van Ship of the Enemy bore away, you having deſcribed your Diſtance from her at a Cable and a half, to the beſt of your Judgment, why did you not follow her?—A. I don't know why we did not follow her; we engaged the ſecond Ship.

Q. Did you not conſider the Van Ship as your particular Opponent?—A. Yes.

Q. Having declared that you believed that the Van Ship bore away on Account of the tremendous Fire from the Cæſar, did ſhe appear to have ſuffered conſiderably from that Fire?—A. Her Maſts were all ſtanding.

Q. Did ſhe appear to have ſuffered conſiderably in her Yards, Sails, and Rigging, from that tremendous Fire?—A. I could not perceive only the Shot-holes in her Sails, I did not take Notice of any Thing particular in her Rigging.

Q. I think you ſaid that when that Ship bore up, that the Cæſar followed her, why did you leave off following her?—A. We engaged the ſecond Ship, the other run from us, having more Sail ſet than we had; I cannot give any Reaſon why we did not follow her.

Q. When the Cæſar was ordered to be ſteered down to engage a three-decker in Action with the Sovereign, how cloſe did you go in the Cæſar to that three-decker?—A. I don't think we were nearer than a Quarter of a Mile.

Q. Did that three-decker appear to you have received conſiderable Damage?—A. No, ſhe did not.

Q. Why did you haul your Fore-ſail up on her bearing away?—A. I believe it was becauſe the Signal was made to cloſe round the Admiral.

Q. Do you know that it was in Conſequence of that?—A. I did not hear any Perſon mention it, it only ſtruck me that it was ſo.

Q. How did the Cæſar proceed after the Fore-ſail was hauled up?—A. We came to the Wind on the larboard Tack firſt, and the Signal was made, as I heard, for the Ship to come to on the ſtarboard Tack, and we wore and come to on the ſtarboard Tack.

Q. You

Q. You have ſtated that when Captain Molloy objected to the lighting the Fires on Account of the Neceſſity there was for filling Powder, Captain Molloy remarking that he knew Lord Howe ſo well, he would not permit thoſe Ships to eſcape; did either Captain Molloy or you know in what Degree the generality of the broken Ships had ſuffered in the Action, and what was their State and Condition?—A. No, certainly not; I gave no Opinion myſelf.

Q. At the Time the Cæſar firſt backed her Maintop-ſail, and opened her Fire upon her Opponent, what do you believe was then the Diſtance between that Ship and the Cæſar?—A. I ſhould ſuppoſe rather better than two Cables Lengths, may be a little more or leſs.

Q. Suppoſing it to be two Cables Lengths as you imagine, do you as an Officer believe that the Diſtance of two Cables Lengths is the propereſt Diſtance for engaging an Enemy with a View of obtaining over them a ſpeedy and deciſive Defeat?—A. No; Captain Molloy thought ſo himſelf that he had brought to rather too far, and ordered the Helm to be put a-Port, that we might run down cloſer, when that unfortunate Accident happened with the Rudder or Tiller.

Q. Upon your Evidence on the Part of the Proſecution, you ſaid you could not ſay how long after the Ships being firſt brought to, it was that the Accident to the Tiller was diſcovered, can you ſay now how long after?—A. Not exactly, it was not any great Time; it was at the Time Captain Molloy ordered the Men partially to ceaſe firing, that we might ſee the Enemy, that he obſerved he thought our Diſtance was too great.

Captain Molloy aſked,

Q. At the Time that the Van Ship went off, was the Cæſar in a Condition to chace her?—A. No.

The Court aſked,

Q. Have you Tackles to your Tiller?—A. Yes.

Captain Molloy aſked,

Q. What Sail did the Van Ship ſet, when ſhe went off with the Wind, upon her ſtarboard Quarter?—A. I don't recollect.

Q. Could the Cæſar, at that Time, ſet any Sail whatever upon the Mizen-maſt, or ſet the Main-ſail?—A. No, we expected the Mizen-maſt would go over the Side every Minute, the Main-ſail was bunted in the Action, and Shots had cut it all to Pieces.

Q. The Proſecutor having in the Preface to one of his Queſtions, preſumed that you had ſaid, that the Cæſar had continued the Action only at Times, did the Cæſar, even while the Rudder was fixed, diſcontinue the Action, from the Time ſhe began to engage the Van Ship of the Enemy was driven out of the Line, except when it was done to let the Smoke clear away?—A. No.

Q. Did the Cæſar leave off firing more than once, to let the Smoke clear away?—A. Not that I remember.

Q. What do you imagine was the increaſed Diſtance of the Cæſar from the Enemy, occaſioned by the Rudder being fixed?—A. I don't

know the Diſtance, but we were not out of the diſtance of the Grape Shot, they reached us.

Q. Before the Van Ship of the Enemy bore away, was not the ſecond Ship of the Enemy nearly a-breaſt of the Cæſar's Lee-quarter, and firing at her?—A. She was on the Lee-quarter, and very near us.

Q. You ſay that you do not know the Reaſon why the Cæſar did not follow the Van Ship; was ſhe not upon that Ship's running away, immediately engaged with the ſecond?—A. Yes.

The Court aſked,

Q. Do you recollect if the Bellerophon was firing at that Time, and at what Ship?—A. I did not ſee the Bellerophon at that Time.

Q. Did you ſee any other Ship?—A. None of our Ships, only the two French Ships; I was looking at them, and the Smoke was ſo thick that I could not ſee at any great Diſtance.

Q. Did you ſee the third Ship of the French Van, when you began to fire on the ſecond?—A. No.

Sir Roger Curtis aſked,

Q. You have deſcribed the Cæſar, as not being in a Condition to follow her Opponent when ſhe bore up, on Account of the State of the Mizen-maſt, and the Defect in the Main-ſail; your being to windward of that Ship when ſhe bore up, could ſhe not have been followed even though the Mizen-maſt had gone overboard in the Attempt?—A. Yes, ſhe might have been followed, but ſlowly.

Q. When the Enemy's Ship did hawl upon a Wind, could ſhe not have been followed by the Cæſar even though her Mizen-maſt was gone?—A. Not with any Probability of coming up with her.

The Court aſked,

Q. Was the Enemy's Ship intire?—A. Yes, ſhe had her Maſts and Yards.

Sir Roger Curtis aſked,

Q. Was the Main-ſail looſed upon the Enemy's Ship bearing up, and was it on Account of its being ſo looſed that the Damages it had ſuſtained were diſcovered?—A. The Bunt of the Sail was looſed in the Action, which I imagine muſt be from the Shot cutting the Gaſketts.

Q. Had you obſerved the Damages that were done to the Mainſail, at the Time the Enemy's Van Ship bore up?—A. Yes, I obſerved it myſelf.

Three o'Clock the Court adjourned till To-morrow Nine o'Clock,

Saturday Morning, Nine o'Clock, the Court met according to Adjournment.

Lieutenant Dickinſon of the Marines, called in again.

Captain Molloy aſked,

Q. Were you Lieutenant of Marines on board the Cæſar, on the Firſt of June?—A. I was.

Q. *Where was* you quartered?—A. On the Poop.

Q. Do

Q. Do you recollect the Britiſh Fleet bearing down, on the Morning of the 1ſt of June, to attack the Enemy?—A. I do.

Q. Did you take Notice of the Bellerophon when ſhe firſt began to engage?—A I did.

Q. At the Moment ſhe began to engage, how was the Cæſar ſituated with reſpect to her?—A. Upon her Weather-bow, at the Diſtance I ſuppoſe of about two Cables Lengths.

Q. How long did the Bellerophon begin to engage before the Cæſar did?—A. About ten or twelve Minutes, I ſuppoſe.

Q. When the Cæſar began to engage, was ſhe as near to the Enemy as the Bellerophon was?—A. Perhaps not quite ſo near, but the Difference of Diſtance was very trifling. not more than a Ship's Length I ſuppoſe, if the Bellerophon had ranged up along-ſide the Cæſar at that Time.

Q. How many of the Enemy's Ships was the Cæſar fired at, in getting into her Station?—A. She received the Fire at Times of the three Van Ships.

Q. Did the Cæſar ſuſtain any Damage before ſhe opened her Fire, and had ſhe any Men wounded?—A. Before the Cæſar opened her Fire, ſhe had received a Shot in the Mizen-maſt which knocked off one of the Iron Hoops, and Part of that Hoop, wounded a Marine on the Poop; what other Damage ſhe might have received I cannot ſay.

Q. Did you hear any Solicitation made to me by the Officers, to let them open their Fire before we did?—A. No, I did not from the Officers; when the Bellerophon brought to, to engage, Captain Molloy was informed of it from the Poop; his Anſwer was, we will go a little farther, and begin alſo.

Q. How was the Cæſar ſituated with reſpect to the Van-Ship of the Enemy at the Time the Cæſar brought to, to engage?—A. She was upon our Bow, the ſecond Ship was nearly a breaſt of us.

Q. Did the Cæſar fire into the ſecond Ship firſt, and ſhoot up a-breaſt of her Opponent, or nearly ſo?—A. I believe ſhe did fire into the ſecond Ship firſt, and continued ſhooting a-head of her.

Q. Did the Cæſar during the whole of the Action, continue to receive the Fire of the two Van Ships of the Enemy?—A. She did.

Q. After the Cæſar had been engaged ſome Time, were any Orders given by me to ceaſe firing, that we might more diſtinctly ſee our Opponent?—A. Yes, Captain Molloy aſked of us upon the Poop, if we could ſee the Enemy; he was informed that we could not for the Smoke; he then gave Orders to ceaſe firing, that we might have a better View of the Enemy.

Q. Immediately on the Smoke's clearing away, did you hear me give any Orders to the Maſter, and if you did, what was his Anſwer?—A. I did not hear any Orders given to the Maſter, till the Signal was obſerved for cloſer Action on board the Bellerophon.

Q. Was the Signal anſwered by my Order?—A. Yes, it was; I then heard Captain Molloy order the Maſter to put the Helm a-port, and the Maintop-ſail to be filled; ſoon after this I heard Captain Molloy ſay, that the Tiller was choked, and could not be moved; he ordered the Sails to be ſhivered, and obſerved, this will make us cloſe upon the Bellerophon, and at the ſame Time make us drop down

upon

upon the Enemy; ſoon after this Time, it was again obſerved, that the Signal was flying on board the Bellerophon for cloſer Action. Captain Molloy was immediately informed of it, and his Anſwer was, it is impoſſible, it cannot have been hawled down.

Q. Did I requeſt of you and the Officers upon the Poop, to uſe your utmoſt Endeavours by hawling in the Braces, to keep the Ship's Head in a Line with the Enemy as much as you could, the Tiller being totally uſeleſs?—A. You frequently deſired us to hawl in the Braces, which I ſuppoſe was intended for that Purpoſe.

Q. During the whole of the Time the Wheel was immovable, did the Cæſar continue to receive the Fire of the two Van Ships of the Enemy, and did their Fire ever ceaſe upon the Cæſar?—A. She did continue to receive the Fire of the two Van Ships, and it did not ceaſe.

Q. At what Time was the Cæſar at the greateſt Diſtance from the Enemy?—A. Juſt before the Tiller was cleared.

Q. After the Tiller was cleared, what Steps were taken to near the Enemy?—A. After the Tiller was cleared, I heard Captain Molloy give the Maſter Directions to ſteer for the Enemy's Van Ship, and the Sails were trimmed accordingly.

Q. At the Time you ſay the Cæſar was at the greateſt Diſtance from the Enemy, how was the Bellerophon ſituated with reſpect to the Cæſar?—A. The Bellerophon was upon the Cæſar's Lee-quarter, I ſuppoſe about a Cable's Length nearer to the Enemy than the Cæſar.

Q. Suppoſing the Bellerophon had been brought up directly a-breaſt of the Cæſar's Main-maſt, what Diſtance do you imagine ſhe would have been from the Cæſar?—A. I ſuppoſe about a Cable's Length.

Q. When the Cæſar after the Tiller was cleared, bore up to engage the Van Ship of the Enemy, did ſhe go as cloſe to her Opponent as the Bellerophon then was?—A. After the Tiller was cleared, the Cæſar ran conſiderably to leeward, and much nearer the Enemy than the Bellerophon was.

Q. Some Time after the Cæſar had opened her Fire upon the Van Ship, and paſſed the Bellerophon, did you, or any of the Officers on the Poop make any Remarks to me, relating to the ſecond Ship of the Enemy's Van?—A. Yes, it was obſerved by Mr. Hopper—and we all ſoon ſaw it, that the ſecond Ship of the Van was on our Lee-quarter raking us.

Q. Upon that Report being made to me, did I enquire after the Bellerophon?—A. Yes, you were informed by myſelf, I believe, that ſhe was upon our Weather-quarter.

Q. Did you ſee her there?—A. I did.

Q. At that Time was the Cæſar cloſely, and warmly engaged with both the Van Ships of the Enemy?—A. She was.

Q. Can you recollect the Damages the Cæſar had ſuſtained at this Time?—A. At this Time, the Cæſar had received another Shot in the Mizen-maſt, nearly through the centre of it; three or four Shots had cut the Mizen-yard, the Mizentop-ſail, and Croſs Jack-yards were both ſhot through; ſome Shot were received in the Main-maſt; the ſtanding and running Rigging was much cut.

Q. When the Van Ship of the Enemy bore away, to what Cauſe did

did you attribute her ſo bearing away?—A. To the Cæſar's Fire, the Ship's Company immediately jumped up, and gave three Cheers.

Q. What were the Proceedings of the Cæſar, immediately after that Ship's bearing away?—A. She opened her Fire upon the ſecond Ship, almoſt immediately.

Q. Did that Ship alſo bear away?—A. She did.

Q. What did the Cæſar then do?—A. She then become oppoſed to the third Ship of the Enemy's Line, which Ship had loſt her Fore-maſt.

The Court aſked,

Q. Were there no Ships of the Britiſh Line near the Cæſar at this Time?—A. None but the Bellerophon upon our Weather-quarter out of Action.

Q. Had ſhe then loſt her Maſts?—A. She loſt her Foretop-maſt either at that Time or ſoon afterwards, I don't know the exact Time ſhe loſt it

Captain Molloy aſked,

Q. Did you obſerve the Cæſar's Signal flying on board the Bellerophon, to chaſe at this Time?—A. I did not.

Q. Did you obſerve any Signal whatever addreſſed to the Cæſar during the Action, after the Tiller was cleared?—A. I did not.

Q. Though you did not ſee it, did you hear any Signal reported to me to chaſe?—A. I did not.

Q. Admitting that the Signal had been ſeen, and reported to me; could the Cæſar, in the diſabled State ſhe was in, have chaſed upon a Wind?—A. I think not, it appeared to me, that ſhe could not ſet any After ſail.

Q. What was the Conſequence of our being oppoſed to the third Ship of the Enemy's Van?—A. She was ſoon diſmaſted by the Cæſar's Fire; there was no other Ship firing on her at the Time.

Q. Was it reported to me that the third Ship's Colours were down?—A. Yes, it was; not long after the Cæſar opened her Fire, the Colours were hawled down, or ſhot away.

Q. What then did the Cæſar do?—A. She ſtopped firing ſome little Time, till the third Ship again hoiſted her Colours, and fired a Broad-ſide into her, which was immediately returned, and the firſt Broad-ſide afterwards, her Main and Mizen-maſt went over the Side; ſhe then ſtopt firing at her, as the Ship appeared to be in a ſinking State at that Time; after we had ſtopped firing at her, I heard Captain Molloy give the Maſter Directions to run the Ship down to a three Decker then engaged with the Royal Sovereign to leeward; when we came near to her, and began to fire at her, ſhe bore up, and ſtood away to leeward.

The Court aſked,

Q. Did you ſee the Leviathan at this Time?—A. No; after we had left the third Ship, I ſaw the Leviathan firing at her, the other Ship not returning the Fire, at leaſt, I did not ſee her return it.

Captain

Captain Molloy aſked,

Q. What Interval of Time was there between the ſecond Ship's bearing away, and our firing at the third?—A. Very little, I cannot particularly ſay how long; it was very ſhort.

Q. Under what Sail did the Cæſar leave the third Ship, and ſteer down to the French three Decker?—A. The Topſails and Foreſail, but I believe the Foretop-ſail was on the Cap at this Time.

Q. In what Situation was the Maintop-ſail?—A. Much ſhattered.

Q. In what Manner did the Cæſar paſs the third Ship of the Enemy's Van?—A. Under her Stern, I believe, I cannot be certain what Part, but I think it was under her Stern.

The Court aſked,

Q. In what Situation was the Cæſar when ſhe engaged her?—A. The third Ship had borne away at this Time, and the Cæſar was nearly a-breaſt of her, upon her larboard Beam, 'till her Main and Mizen-maſts went.

Q. Was it after that, that you paſſed under her Stern?—A. Yes, I ſuppoſe it was the Stern.

Q. After ſhe had hoiſted her Colours a ſecond Time, did ſhe keep them flying?—A. Yes.

Q. How near did you paſs under her a-ſtern?—A. Very near to that Part that ſhe did paſs, which I believe was under the Stern.

Q. Did you then fire into her?—A. I believe not.

Q. Was you within Muſquet Shot of her?—A. Yes, very near, and much within Muſquet Shot.

Q. Had you any Orders not to fire into her?—A. No.

Q. Why did you not fire at her then, as ſhe had her Colours flying?—A. Moſt of the Men quartered at ſmall Arms, were ſent to the great Guns, to replace thoſe that were either killed or wounded.

Q. Had you any killed or wounded by Muſquetry?—A. Not on the Poop.

Q. What Ship of the French Van did the Bellerophon commence her Fire at, and might not the Shot from that Ship, as the Cæſar was on the Weather-bow of the Bellerophon, occaſion the Damage you now have ſtated the Cæſar received in her Mizen-maſt?—A. I believe upon the Quarter of the third Ship; the Shot that ſtruck the Mizen-maſt came from forward.

Q. What Ship did the Leviathan open her Fire upon?—A. I cannot particularly ſay, but ſuppoſe the fourth.

Q. Which ſide of the Cæſar was the French third Ship, when ſhe paſſed her?—A. I think on the ſtarboard.

Captain Molloy aſked,

Q. With what Guns did the Cæſar fire at the French Ship?—A. The ſtarboard.

Q. Did the Cæſar hawl her Foreſail up, and bring to before the French three Decker bore up from the Royal Sovereign's, and our Fire?—A. No, ſhe did not.

Q. Did you obſerve any Signal flying on board the Royal Sovereign,

reign, and if you did, what was it?—A. I ſaw the Signal flying which I underſtood to be the Signal to cloſe round the Admiral.

Q. Upon a Review of every Thing that paſſed, from the Time the Signal was firſt made to engage, till the Fleets ſeparated, after the Action, and bringing to your Remembrance the whole of my Conduct during that Period, can you accuſe me of having neglected any Thing that was in my Power to do, to cloſe with and defeat the Enemy on the Firſt of June?—A. No, I cannot, Captain Molloy appeared to me to have done every Thing that he could do for that Purpoſe.

Sir Roger Curtis aſked,

Q. You have ſaid that the Cæſar was about two Cable's Length upon the Bellerophon's weather Bow, when the Bellerophon began to engage, what Diſtance was the Bellerophon then from the Enemy, to the beſt of your Judgment?—A. Leſs than Half a Mile, I believe, when the Cæſar brought to to engage.

Q. Did ſhe bring to in a Line with the Bellerophon?—A. I have obſerved before that ſhe brought to at rather a greater Diſtance.

Q. Then if the Cæſar brought to rather at a greater Diſtance than the Bellerophon, do you imagine that that made up the full half Mile?—A. The Cæſar did not bring to at more than a Ship's Length greater Diſtance from the Enemy than the Bellerophon.

Q. Having deſcribed the Diſtance of the Bellerophon brought to from the Enemy, what, in your Opinion, is the real Diſtance from the Enemy that the Cæſar brought to to engage?—A. Not much, if any Thing more than Half a Mile.

Q. Have you been accuſtomed to Actions at Sea, and can you to take upon you to form a Judgment what is the proper Diſtance for contending Ships to engage at?—A. I have never been in Action but once before the 29th of May, and do not conceive myſelf to be a Judge of proper Diſtances.

Q. From the beſt of your Judgment, do you apprehend that Half a Mile is a ſuitable Diſtance for that Purpoſe?—A. I believe the nearer Ships are to each other, it is thought the better in general, but that I conceive to depend upon Circumſtances.

Q. What Circumſtances do you appprehend would make a diſtant Action better than a cloſe one?—A. I cannot particularly ſtate what thoſe may be, but ſhould ſuppoſe ſuch particular Circumſtances may at Times occur.

Q. To the beſt of your Judgment, was the Cæſar at the moſt proper Diſtance for a cloſe and deciſive Action, when ſhe brought to to engage?—A. She brought to nearly in a Line with the reſt of the Van; probably if the reſt of the Van had been nearer, it might have been better, but I preſume it would not have done for a ſingle Ship.

Q. You have ſaid, that the Cæſar did not bring to to engage quite ſo near to the Enemy as the Bellerophon did; do you know why the Cæſar did not go quite ſo near as that Ship?—A. No, I do not; probably ſhe might not have run ſo far to leeward, in bringing up, as was expected.

Q. You have ſaid that the Cæſar, when ſhe brought to to engage, was nearly a breaſt of the ſecond Ship of the Enemy, and that the leading Ship of the Enemy, the particular Opponent, was upon the Cæſar's Bow; do you know why the Cæſar did not go and attach herſelf to her particular Opponent?—A. No, I do not; but I underſtand that the Van cloſing to the Centre was the Cauſe.

Q. When did you underſtand that, and from whom did you receive your Information, if you did not make it yourſelf?—A. When we were running down, I heard Captain Molloy obſerve, that the Van had cloſed ſo much to the Centre, that we muſt unavoidably receive the Fire of two or three Ships of the Enemy, before we could get into our Station.

Q. Is it poſſible for Ships to bear down to engage an Enemy, formed in a Line to leeward, without receiving the Fire of ſeveral Ships in bearing down?—A. I ſhould ſuppoſe it may be poſſible.

Q. You have ſaid, that you heard Orders given to ceaſe firing on board the Cæſar after the Action had commenced; how long after the Action had commenced were thoſe Orders given?—A. I ſuppoſe about a Quarter of an Hour.

Q. You was aſked, by Captain Molloy, if you did not hear him give ſome Directions to the Maſter after the Action commenced, and your Reply was, that you heard no Orders given til the Signal for cloſe Action was out on board the Bellerophon; was it known that the Wheel could not be moved when that Signal was obſerved?—A. When the Smoke cleared away, in Conſequence of the Ceſſation of firing, the Signal for cloſe Action was obſerved on board the Bellerophon; at that Time Captain Molloy gave the Maſter his Orders to put the Helm a-port, and I believe it was at that Time the Tiller was found to be jammed.

Q. You do not then know, I preſume, how long that Signal might have been flying on board the Bellerophon, before it was obſerved on board the Cæſar?—A. No, I do not.

Q. In the Courſe of your Evidence, you have ſtated hearing ſeveral Orders delivered by Captain Molloy; you being ſtationed on the Poop, and the Ship having been in conſtant Action, except at one Interval that you have deſcribed, do you think that from the Noiſe of the Cannon, and your Situation on the Poop, you might, under theſe Circumſtances, have heard ſo diſtinctly thoſe ſeveral Orders as you imagine you did?—A. As we were not uſing the ſmall Arms, and Captain Molloy was frequently calling to us on different Occaſions, my Brother Officers, and myſelf, placed ourſelves on the fore Part of the Poop, where I could hear the Orders that I obſerved given.

Q. Were any Men broke off from their ſmall Arms, on the Poop, to aſſiſt at the great Guns, at the Commencement of the Fire?—A. Not exactly at the Commencement, but afterwards ſeveral were.

Q. Were the Men at their ſmall Arms employed at firing at the Enemy when you firſt brought to, or any Time afterwards?—A. No, they were not.

Q. What was the Reaſon they were not ſo employed?—A. I do not particularly know; they were frequently employed in hauling the Braces, and other neceſſary Occaſions on the Poop.

Q. As

Q. As an Officer of the Marine Corps, do you hold it neceſſary that you ſhould receive a particular Order to direct your Men to fire upon the Enemy, when the Ship you are in commences her Fire from the Cannon, if you ſhould deem yourſelf then within Muſquet-ſhot of the Enemy?—A. Yes, I have always underſtood that Order neceſſary.

Q. When the Cæſar brought to to engage, do you think ſhe was at a proper Diſtance for engaging with Muſquetry to effect?—A. No, I do not; I conceive half a Mile too great a Diſtance.

Q. Were the Cæſar's Sails a-backed at Times, while the Tiller was immoveable?—A. They were ſometimes ſhivered, and ſometimes a-back, as the Ship came up or fell off.

Q. Did the Cæſar, in Conſequence of her Sails being ſhivering, or a-back, drop a-ſtern in Conſequence thereof?—A. Yes.

Q. When ſhe was at the moſt a-ſtern that you obſerved her, how was ſhe then ſituated with reſpect to the Bellerophon?—A. She was upon the Bellerophon's Bow, but never ſo far but I could ſee the Enemy's ſecond Ship open upon her Bow.

Q. When the Directions were given, after the Obſtruction to the Tiller was removed, to ſteer down to the Van Ship of the Enemy, how near did the Cæſar go to her in your Judgment?—A. Within a Cable's Length, I believe.

Q. You have ſaid it was obſerved that the ſecond Ship of the Enemy's Van was upon the Cæſar's lee Quarter, raking her, how much was ſhe upon the lee Quarter?—A. Her Broadſide was nearly upon our Quarter; ſhe bore up, I believe, for the Purpoſe of firing at our Quarter, as we were engaging the other Ship.

Q. At this preciſe Time that you ſo ſaw the ſecond Ship of the Enemy, did you obſerve the Bellerophon?—A. I can't particularly ſpeak to that to a Moment, but about that Time I ſaw the Bellerophon upon our weather Quarter, out of Action.

Q. Was this before the Van Ship of the Enemy had bore away?—A. Yes, it was.

Q. Did the Bellerophon at that Time appear diſabled?—A. About that Time I believe ſhe loſt her Foretop-maſt; ſhe had it when we paſt her, and when we came out of Action ſhe had loſt it.

Q. Did you obſerve the Van Ship of the Enemy bear away?—A. Yes, I did.

Q. Did ſhe appear in a diſabled State?—A. No, ſhe did not; I ſaw that ſhe had received Damage in her Sails, and other Things.

Q. Do you know why the Cæſar did not follow her when ſhe bore away?—A. From the Cæſar's being ſo much diſabled, I ſuppoſe to be the Cauſe.

Q. You have ſpoke of Damages received by the Cæſar in her Maſts, Yards, and Sails, while engaged with the Enemy's Van Ship; did you know of theſe Particulars at the Time, or did you become acquainted with them afterwards?—A. I ſaw moſt of the Shot take place.

Q. I think you have ſaid that you were engaged with the ſecond Ship of the Enemy, as well as the firſt, before the Van Ship of the Enemy bore away; when you was engaged with the ſecond Ship,

were you a-breaſt of her, or how were you ſituated with reſpect to her?—A. After the Van Ship bore up we came oppoſed to the ſecond, which Ship was then bearing away alſo; we were engaged with her upon her Quarter; I think ſhe ſtaid a very little Time.

Q. Did you take Notice of the ſecond Ship when ſhe bore up, with reſpect to any Damages that ſhe might have received?—A. I did not obſerve any particular Damages ſhe had received.

Q. You have ſaid that after the ſecond Ship bore up, you then became engaged with the third Ship, how near was you to the third Ship when you ſo engaged her?—A. We were at different Diſtances; we cloſed upon her; I ſuppoſe when her Main and Mizen-maſt went, we were not more than a Cable's Length.

Q. As you were chiefly engaged with the Van Ship of the Enemy, how long after ſhe bore up, and the ſecond Ship of the Enemy alſo, was the Cæſar ſteered in order to be brought within a Cable's Length of the Enemy's third Ship?—A. She was bearing up alſo, and we were following the ſecond Ship, which brought us nearer to her, as ſhe had but little Sail.

Q. Having ſtated in your Evidence, that when firſt you ſaw the third Ship from the Enemy's Van that her Fore-maſt was gone, how can a Ship in that Situation be poſſibly bearing up?—A. I don't know by what Means it is to be done, but when we became oppoſed to her, ſhe was running to leeward.

Q. In Anſwer to a Queſtion put to you by Captain Molloy, you ſaid the Cæſar was not in a State to chaſe upon a Wind; are you ſufficiently acquainted with the Buſineſs of a Seaman, and ſufficiently ſkilled in the Management of Ships, to know when they are in a Condition to do a Thing, and when they are not?—A. No, but I gave it as my Opinion, that the Cæſar was not capable of chaſing upon a Wind, or not being able to carry any After-ſail.

Q. How then confeſſing, as you do, that you are not well verſed in Sea Matters, can you tell whether a Ship can carry After-ſail, or not?—A. From the Wounds in the Mizen-maſt, and the Mizen and Croſs-jack-yards being ſhot through, it appeared to me that ſhe could not carry After-ſail.

Q. You have ſaid you have heard Directions given for the Cæſar being ſteered down to a Three-decker of the Enemy, engaged with the Royal Sovereign, how near to the Three-decker did the Cæſar go?—A. She was a conſiderable Diſtance from her; I ſuppoſe three or four Cable's Lengths.

Q. Did you obſerve the Condition of that Three-decker when ſhe bore away?—A. She did not appear to me to be much injured.

Q. You have ſtated that when the Cæſar hauled her Fore-ſail up, you imagine it was in Conſequence of the Signal being made to cloſe round the Admiral; did you ſee that Signal?—A. I did ſee the Signal flying on board the Royal Sovereign, which I ſuppoſe was to cloſe round the Admiral.

Q. Was that Signal ſeen, which you ſuppoſe was to cloſe round the Admiral, before the Fore-ſail was hauled up?—A. Yes, it was.

Q. Did the Cæſar come to the Wind upon hauling her Fore-ſail up?—A. I believe ſhe did.

Q. Upon

Q. Upon what Tack?—A. I believe upon the larboard Tack.

Captain Jemmat Mainwaring, of the L'Eſpiegle, of the Royal Navy, called in, and ſworn.

The Admiralty Order, and Charge, were read.

Captain Molloy aſked,

Q. Were you a Lieutenant of the Ruſſel in the Action of the Firſt of June, and where were you quartered?—A. I was third Lieutenant, and quartered on the Lower-deck; but, during the Action, was three Times on the Quarter-deck on Duty.

Q. Did you ſee the Cæſar at any Time during the Action, when you came upon the Quarter-deck?—A. I did, the ſecond and laſt.

Q. Relate to the Court any Obſervations you may have made at the Times you ſay you did ſee her?—A. After the Ruſſel's Opponent in the Line bore away, I was on the Quarter-deck to receive Captain Payne's Orders; he pointed out the diſabled State of the Ruſſel, and her Inability to purſue her own Opponent; told me it was his Intention to go on, and aſſiſt his Friend Lord Hugh, and deſired me to be prepared with the larboard Guns; when Captain Payne had given his Orders, the firſt Lieutenant made ſome Obſervations to me relating to the Cæſar's Conduct, which Captain Payne obſerving, hurt me a good Deal; ſaid he was ſure ſome Accident muſt have happened to Captain Molloy, or the Cæſar. I went over with the firſt Lieutenant to the larboard Side, to obſerve if I could ſee the Cæſar; but from the Smoke of the Bellerophon and Leviathan, and the Ships they were oppoſed to, I could not obſerve her. I then returned to my Quarters, and having paſſed cloſe under the Third of the Enemy's Ship's Stern, and fired two Broadſides into her Stern and Quarter, I came again on Deck; at this Time we were ſomething more than a Quarter of a Mile on the lee Quarter of the Third of the Enemy's Ships, having received Captain Payne's Orders to fire at the Three-decked Ship, then coming up on our lee Quarter. I went over to windward to look again for the Cæſar, and then diſtinctly ſaw her in the Opening between the firſt and ſecond Ships of the Enemy, cloſely engaged. I returned to my Quarters, and having fired a few Shot at the Three-decker, upon the lee Quarter, a Midſhipman came to me with Orders from Captain Payne, that the Van Ships had given way, and were coming down upon us, deſired me to be prepared on the larboard Side; they ſoon came in View, and we engaged them paſſing. Orders then came down to ſend ſome Seamen on the Lower-deck, to get the Fore-top-ſail ſet, and repair our Damages. I came upon Deck with them; the firſt Object that ſtruck me was, the Cæſar ſteering before the Wind, with her Fore-ſail ſet down upon a Three-deck Ship, then engaged with the Royal Sovereign. I obſerved to the Officers on the Quarter-deck, and ſaid, that Ship muſt fall, for I have not a Doubt but Captain Molloy will run thwart Hauſe of her. I ſaw no more of her that Day during the Action.

Q. After thoſe two Van Ships had given Way, and hauled their Wind on the ſtarboard Tack, in what Situation was the Ruſſel?—A. She

She was very near a Mile from the lee Quarter of the Third of thoſe Ships, for we had kept large.

Q. Did you obſerve thoſe two Ships bring to on the lee Quarter of the Leviathan, and engage her?—A. I did not at the Time we engaged them, they were under a-preſs of Sail.

The Court aſked,

Q. When you paſſed under the third Ship's Stern, in what State was ſhe as to her Maſts and Yards?—A. Her Maſts were all ſtanding; I do not know the Situation of her Yards.

Q. With what Ships of the Enemy were the Leviathan and Bellerophon engaged, when you went to windward to look for the Cæſar?—A. The Leviathan was very cloſely engaged with the third Ship, and the Bellerophon alſo appeared to be ſo with the ſecond.

Q. On what Tack were the Enemy's Van Ships, when you ſaw the Cæſar engaged with them?—A. On the larboard Tack.

Q. What Ship was the Bellerophon then engaged with?—A. The ſecond Ship.

Q. Was that long before the Van bore away?—A. I ſhould judge about ten Minutes, or a Quarter of an Hour.

Sir Roger Curtis aſked,

Q. At what Period of the Action was it that you firſt went to windward to look for the Cæſar?—A. About an Hour and a Half after the Commencement; I think that was the Time.

Q. Did you then diſtinctly ſee the Leviathan and Bellerophon?—A. The Leviathan very diſtinctly, but by no Means the Bellerophon.

Q. Was the Ruſſel then in the Wake of the Leviathan, or was ſhe to leeward of her?—A. She was ſomething to leeward of her.

Q. Could you ſee the Opening between the Van Ships of the French Line, and the Van Ships of the Engliſh?—A. Perfectly; between the Leviathan and her Opponent, but not further.

Q. Did you at all ſee the Bellerophon at that Time?—A. I did.

Q. How was ſhe ſituated with reſpect to the Leviathan?—A. She appeared to me right a-head.

Q. As you ſay the Ruſſel was rather to leeward of the Leviathan and Bellerophon, might not the Cæſar have been to windward of the Bellerophon, and theſe Ships obſtruct your View of her?—A. In my Opinion ſhe might, but we were ſo nearly in the Wake of the Leviathan, and that Ship and the Bellerophon ſo cloſe to each other, that ſhe could not have been a Cable's Length to windward without my obſerving it.

Q. At what Period of the Action did you firſt ſee the Cæſar?—A. A few Minutes before the Van Ships bore up.

Q. When you ſaw the Cæſar cloſely engaged, as you have before ſaid, with which Ship of the Enemy was ſhe ſo engaged?—A. It appeared to me that ſhe was engaged with the Van Ship.

Q. When Captain Payne ſaid he muſt go to the Aſſiſtance of his Friend Lord Hugh, was the Leviathan then engaged with her Opponent?—A. She was.

Q. At

Q. At the Time you happened to ſee the Cæſar, did you obſerve her engaged with the ſecond Ship of the Enemy?—A. No, I did not.

Q. Did you ever ſee her engaged with the third Ship of the Enemy?—A. No, I did not.

Q. You have ſaid the firſt Lieutenant of the Ruſſel, when you went upon the Quarter Deck, made ſome Obſervations to you reſpecting the Conduct of the Cæſar, what were thoſe Obſervations?—A. That her Signal had been made for cloſer Action, the Obſervations hurt me, becauſe I have had the the Honour of ſerving under Captain Molloy in nine ſeveral Actions; I feel it an Honour, and muſt boaſt, that in thoſe Actions I was always cloſe to his Perſon, and in my Opinion no Man could be more firm, determined, and cool, always ready with a Reſource to repair any Damages the Ship might have ſuſtained both in the heat of Battle, and afterwards. Captain Payne obſerving my Feelings, and knowing my Services with Captain Molloy, kindly ſaid, that he was ſure ſome Accident had happened either to the Cæſar, or to Captain Molloy: I turned from the Lieutenant, and paid but little Attention; I believe I ſaid, that I ſhould endeavour to get explained the Cauſe, and that if it was not ſatisfactory to my own Feelings, I would never again ſpeak to Captain Molloy.

Captain Molloy aſked,

Q. On your making thoſe Enquiries were thoſe Feelings ſatisfied?—A. They were.

Sir Roger Curtis aſked,

Q. You have ſaid, that you did not obſerve the two Van Ships of the Enemy bring to on the ſtarboard Quarter of the Leviathan, and fire upon her, did you obſerve them paſs the Bellerophon, and not do ſo?—A. I did not, my Quarters were on the Lower Deck.

Rear Admiral Thomas Pringle called in and ſworn.

Captain Molloy aſked,

Q. Were you Captain of the Valiant, in the Action of the Firſt of June?—A. I was.

Q. Do you remember the Royal Sovereign's being engaged with a French Three-decker, to leeward, after the Enemy's Line had been broken?—A. I do very late in the Action.

Q. How was the Valiant ſituated with reſpect to the Royal Sovereign at that Time?—A. I had obſerved the Commander in Chief engaged with ſeveral of the French Ships, I do not remember how many, I think a Three-decker, and a Two-decker, conſequently went up to his Support: theſe Ships kept going on, which led me paſt the Commander in Chief; I then ſaw the Sovereign firing at one of the Three-deckers; my Purpoſe then, was to go to her Aſſiſtance, conſequently, I was nearly a-ſtern of the Sovereign.

Q. In that Situation did you ſee the Cæſar, and pleaſe to relate ſuch Remarks as you made on her, if you did?—A. When firſt going towards the Sovereign, I did not ſee the Cæſar, but when I came near the

the Sovereign, I ſaw the Cæſar coming down; the Thing that made me attend to her then was, my taking her for one of the Van Ships of the Enemy, and had ordered the People to mann the larboard Guns, when I diſtinguiſhed her to be the Cæſar; this was very late in the Action: the Cæſar had then, I think, her Fore-ſail ſet, and I believe her Foretop-ſail was lowered down or crippled. My Attention was very ſoon taken from the Cæſar; the next Thing, I ſaw the Cæſar was on the Wind, on the larboard Tack, nearly on a parallel with other Ships.

Q. Did you ſee the French Three-decker bear up from the Royal Sovereign?—A. Yes, I ſaw that ſhe was bore up.

Q. Did you ſee the Royal Sovereign bear up to chaſe that Ship?—A. I can't ſay I did ſee the Royal Sovereign chaſe that Ship, that Ship bore up, the Sovereign was far from the Wind, as was the Valiant.

Q. Did the Cæſar haul up her Fore-ſail, and come to the Wind before that Ship bore up?—A. I cannot ſpeak decidedly, but I ſhould think the Ship was bore up before the Fore-ſail of the Cæſar was hauled up, and brought to the Wind.

Q. Did you obſerve any Signal flying on board the Royal Sovereign at that Time?—A. Yes, about that Time, the Valiant's Signal, to form a-head or a-ſtern of the Sovereign, as moſt convenient; and we formed a-head, a little after that I think the Signal to cloſe, but I obſerved no other Signals on board the Sovereign.

Sir Roger Curtis aſked,

Q. Had the Signal to cloſe to the Admiral been made when the Cæſar hauled to the Wind on the larboard Tack?—A. I think the Signal was after it conſiderably; I looked upon that Signal to be to call the Ships together at the cloſe of the Action; I was going to mention that previous to the Sovereign's having made the Valiant's Signal to form either a-head or a-ſtern; the Commander in Chief had made that Signal, I looked upon one as a Repetition of the other.

Major Driffield, of the Marines, called in again.

Captain Molloy aſked,

Q. Were you on board the Cæſar the Firſt of June laſt, and where were you quartered?—A. I was quartered on the Quarter Deck.

Q. Do you remember the Fleet bearing up to engage the Enemy on that Day?—A. I do.

Q. When the Cæſar backed her Maintop-ſail to engage, how was ſhe ſituated with reſpect to the Bellerophon?—A. I did not obſerve the Bellerophon at that Time.

Q. How was the Cæſar ſituated at that Time with reſpect to the Van Ship of the Enemy?—A. To the beſt of my Recollection rather abaft her Beam.

Q. Did the Cæſar ceaſe to engage the Van Ship of the Enemy, from the Time ſhe firſt opened her Fire upon her, 'till ſhe was beat out of the Line, except for the purpoſe of letting the Smoke clear once?—A. No, never, we were likewiſe firing at the ſecond Ship, and ſhe at us, for ſeveral Times; I ordered the two Guns on the Quarter Deck to be

be trained, and fired once at the Van Ship, and the other at the Second.

Q. Was the Bellerophon, at any one Time during the Action, ſo far advanced upon the Cæſar, as to render it poſſible for the Cæſar to have fired into or over her?—A. I am ſhocked at the Idea of ſuch a Thing, no never.

Q. At what Period of the Action was the Cæſar at the greateſt Diſtance from the Enemy?—A. At the Time her Rudder was choaked.

Q. After the Action had begun, did you ſee any Thing of the Bellerophon, particularly at the Time the Rudder was choaked?—A. I do not recollect I did.

Q. Prior to the Cæſar's opening her Fire, was I frequently urged by the Officers to let them fire before we did?—A. Yes, and Captain Molloy's Anſwer was, no, they ſhall feel our Shot hit them pretty hard, I will go nearer them yet.

Q. Did you hear the Officers on the Poop report to me that the Cæſar's Signal for cloſer Action was out, and can you recollect the Effect it had upon me?—A. Yes, I did, but it was during the Time the Rudder was choaked; I never ſaw a Man more hurt at anything in my Life; before the Signal was made, I heard Captain Molloy order the Helm to be put hard a-port.

Q. After the Tiller was cleared, did you obſerve my Conduct, and hear any Order I gave immediately?—A. When the Captain was informed the Ship was relieved, he expreſſed much Joy and Satisfaction, claſped his Hands, and ſaid, thank God, and with the ſame Breath, called out to the Helmſman, hard a-port, hard a-port, and I might add, run down cloſe to the Enemy.

Q. Did you hear me give any, and what Orders to the Maſter and to the Lieutenant ſtationed on the Fore-caſtle?—A. He deſired the Maſter to run him cloſe along-ſide to his Opponent.

Q. Did the Cæſar go down cloſe to the Van Ship of the Enemy?—A. She did; we were expoſed to the two Van Ships of the Enemy at that Time; they were always cloſe together.

Three o'Clock the Court adjourned 'till Monday Morning Nine o'Clock.

11th. Monday Morning, Nine o'Clock, the Court met according to Adjournment.

Major Driffield called in again.

Captain Molloy aſked,

Q. Soon after we got cloſe to the Van Ship of the Enemy, did you hear the Officers on the Poop call out to me that the ſecond Ship of the Van of the Enemy was cloſe under our Lee-Quarter, keeping up a heavy Fire, or raking us?—A. I do not recollect hearing anything ſaid from the Poop, but perfectly recollect ſeeing the Ship in that Poſition.

Q. Did you at or about that Time hear me make any Enquiries what was become of the Bellerophon?—A. I did not hear what was

 ſaid,

ſaid, but Captain Molloy was looking on the Poop, I think at Mr. Dickinſon, and I heard the Bellerophon pronounced two or three Times; from that I went over to the oppoſite Side, and got on the Gun, and ſaw her, ſhe was to windward and a-ſtern with all on our Weather Quarter.

The Court aſked,

Q. Was the Bellerophon diſabled at this Time?—A. Apparently not.

Captain Molloy aſked,

Q. Had the Van Ship bore away at the Time you ſaw the Bellerophon in that Situation?—A. To the beſt of my Recollection, ſhe was in the Act of bearing away, for I remember bringing a couple of Guns, to bear upon her Quarter abaft; ſhe was not quite before the Wind. I beg leave to ſay, that I did not ſee any other Ship firing but the Cæſar at the Time the two Van Ships bore up. I could wiſh to relate, that I went and congratulated Captain Molloy on his Victory, for which he did me the Honour of giving me both his Hands: I likewiſe ſaid, we have hot Work of it, Sir: his Anſwer was, yes, Driffield, ſo we have, for this is only a beginning, I hope, for if I know my Lord Howe at all, he will not ſpare an Inch of them. After the ſecond Ship had bore up, our Helm was put a-port, and we followed them (of Courſe by Order of the Captain), till we came near the third Ship which had loſt her Fore-maſt; while we were keeping up a hot and well directed Fire, for I heard our Shots ſtrike her, ſaw and heard her Main and Mizen-maſt go overboard, and a Man haul down her Colours; there was Orders to ceaſe firing on her but, to my Aſtoniſhment, I ſaw a Man hoiſt her Colours again, and ſhe renewed the Fire; ſhe muſt have ſtruck again, as to the beſt of my Recollection, ſhe had no Colours when we paſſed under her Stern; our Head pointing then for a Three-decker that was engaging one of our Three-deckers, which, when we came pretty near her, we opened our Fire on her.

The Court aſked,

Q. Can you mention Diſtance?—A. I am no Judge of Diſtances, we were not within reach of Muſquetry; her Shot went a conſiderable Way beyond us, ſoon after we had fired, the Three-decker bore up, ſet her Topgallant ſails, and went off.

Captain Molloy aſked,

Q. Have you ever been in Action before the Twenty-ninth of May?—A. Yes, in ſeven or eight.

Q. You have given your Opinion, as to my Conduct on the 29th of May, you will now give your Opinion as to my Conduct on the 1ſt of June, from the beginning of the Action to the Cloſe of it, and in the thickeſt of the Fire?—A. I do ſolemnly declare, as I hope I have a Soul to be ſaved that from the firſt to the laſt Moment of our ſeeing the Republican French Fleet, that Captain Molloy's Courage, Conduct,

duct, Exertions, and Coolneſs, in his Commands were ſuch of a truly brave Man, zealous for the Welfare of his King and Country.

Q. Did the Cæſar, to the beſt of your Judgment, take a proper Poſition to begin the Action, and was every Effort made on my Part to cloſe with, and defeat the Enemy on the Firſt of June?—A. I do ſincerely think that ſhe did.

Captain Molloy ſaid,

Mr. Preſident and Gentlemen of the Court, I beg leave to obſerve, that it has appeared already by ſeveral Evidences, and will by the Evidences of all my Ship's Company, that the Cæſar's Fire carried away the Main and Mizen-maſt of the America, but I do not aſcribe any Merit to myſelf on that Occaſion, as that Ship had loſt her Foremaſt, and had been compleatly beaten by Lord Hugh Seymour, prior to our being near her; I would on no Conſideration whatever, detract from the Merit of any other Perſon; I ſought this Court Martial only with a View to vindicate my own Character from the Attack made on it.

The Court aſked,

Q. When you went down as you ſay pretty near the Three-deck Ship, was there any other Britiſh Man of War between the Three deck Ship and the Cæſar?—A. Yes, there was one a Two-decker; there was one of our Three deckers engaged with her, and a Two-decker beſides, between the Cæſar and the Enemy.

Captain Molloy aſked,

Q. Did the Cæſar bring to, or leave off running down to that Three-decker before that Three-decker had run away from the Britiſh Three-deck Ship that was then engaging her?—A. I have mentioned, in a former Anſwer, that while we were firing ſhe bore up.

Sir Roger Curtis aſked,

Q. You have ſaid that while you were engaged with the Van Ship you had trained ſeveral Guns to fire at the ſecond Ship, were you at that Time in the Cæſar, ſituated between the two Van Ships of the Enemy?—A. To a former Queſtion, I ſaid that I trained the two Foremaſt Guns of the Quarter Deck, one to be fired at the ſecond Ship, and the other at the Van.

Q. How were you then ſituated with reſpect to thoſe two Ships?—A. The Van Ship was before our Beam; the ſecond Ship abaft the Beam.

Q. What was the Diſtance between thoſe two Ships of the Enemy at that Time?—A. I have ſaid they always kept cloſe. From the very thick and conſtant Smoke, I cannot think I ought or can ſay the Diſtance.

Q. Can the Fore-maſt Gun of the Quarter Deck be brought to fire upon a Ship a-head of another; and Guns nearly in the ſame Situation be brought to fire at the ſhip a-ſtern of that, without the Ship firing theſe Guns, being at a conſiderable Diſtance from them in order to be able to fire at both at the ſame Time?—A. I know that we did ſo;

I pointed one Gun to the Quarter of the headmoſt Ship, and pointed and fired the other at the Bow of the ſecond Ship.

Q. You have ſaid, that you heard Captain Molloy order the Helm to be put hard a-port, before the Signal was made for cloſer Action on board the Bellerophon, was not that Signal obſerved on board the Cæſar, upon Orders being given to ceaſe firing, that the Smoke might clear away?—A. I heard ſomething about the Signal being made, but did not ſee it; the Orders to put the Helm a-port was given before that.

Q. Was the Signal obſerved on board the Cæſar until the firing ceaſed?—A. I cannot charge my Memory to ſay.

Q. Was it diſcovered on the Smoke's clearing away?—A. I do not know, I was too attentive to firing the Guns at that Time.

Q. As you ſay you do not know when the Signal in the Bellerophon was firſt obſerved on board the Cæſar, how do you know that Captain Molloy gave thoſe Orders before the Signal was made?—A. I obſerved before, that when the Signal was made, it was when the Rudder was choaked.

Q. How came you to know that the Orders to run down were given by Captain Molloy before that Signal was made?—A. As I heard the Orders given by Captain Molloy, and did not hear any Thing of the Signal 'till afterwards.

Q. You have ſaid, that after the firſt and ſecond Ship in the Enemy's Van bore up, they were followed by the Cæſar until the Cæſar came near the third Ship of the Enemy's Van, where was the third Ship ſituated, in reſpect to the Cæſar, while the Cæſar was engaged with the Van Ship?—A. While the Cæſar was engaged with the Van Ship, I did not ſee the third Ship, only the ſecond.

Q. Was her natural Poſition in the French Line a-ſtern of the ſecond Ship?—A. I ſhould ſuppoſe ſo, as ſhe became the Van when the two went.

Q. When you were ſteering towards the third Ship of the Enemy, was the Wind upon the ſtarboard or larboard Side of the Cæſar?—A. To the beſt of my Recollection, our Yards were not ſquare, but if any Thing, it muſt have been upon the larboard Side of the Cæſar, but it is ſo long a Time ago that I can't recollect.

Q. When you firſt ſaw the third Ship of the Enemy, was her Foremaſt gone?—A. Yes it was, and her Hull apparently much damaged.

Q. Was her Head then in the Direction that the Ships firſt brought to, to engage?—A. When firſt I obſerved her ſhe appeared to me to lie in the Act of wearing, for I could only bring the Guns to bear upon her larboard Quarter.

Q. You ſaid, that you paſſed under the Stern of the third Ship, how near to her did you ſo paſs?—A. When we paſſed under the Stern of that Ship ſhe appeared to me to be diſabled; at the Time we paſſed under the Stern we were going to engage the Three deck Ship, I could wiſh not to ſpeak to Diſtance.

Q. When you paſſed under the Stern of that Ship, was ſhe upon the ſtarboard or larboard Side of the Cæſar?—A. To the beſt of my Recollection the larboard Side.

The

The Court aſked,

Q. When you dropped a-ſtern of the third Ship, did you ſee any thing of the Leviathan?—A. I ſaw a Ship, a Two-decker, coming up.

Sir Roger Curtis aſked,

Q. Conſidering the Situation of the Cæſar as the Van Ship of the Britiſh Line, how is it poſſible that the Cæſar could have paſſed under the Stern of the third Ship of the Enemy, leaving her upon the larboard Hand, unleſs the Cæſar had hauled conſiderably towards the ſtarboard Tack?—A. I ſpoke to the beſt of my Recollection, when I ſaid ſhe was on the larboard Hand; a Ship going nearly before the Wind, may, I ſhould ſuppoſe, go on one Side or the other.

Q. Was the Enemy's Ship before the Wind, or going large?—A. At the Time we paſſed ſhe could not go at all, ſhe had loſt her Maſts.

Q. Was the Wind upon her Broadſide?—A. The Wind muſt have been upon her Broadſide, if the Wind had been a-ſtern, ſhe muſt have gone through the Water.

Q. Were any Signals made for altering the Poſition of the Fleet, at that Time, to your Knowledge?—A. Not to my Knowledge.

Q. Upon which Side was the Wind?—A. I cannot recollect, I hope it is underſtood that I cannot recollect whether it was on the ſtarboard or larboard Side when we paſſed under her Stern.

Q. Could the Cæſar have paſſed under that Ship's Stern, leaving her either upon the larboard or ſtarboard Side, without having firſt hauled towards the ſtarboard Tack?—A. I have already ſaid that I conceive a Ship going nearly before the Wind, could either go a-head or a-ſtern.

Q. But having gone under her Stern, as you have before ſaid, I repeat the former Queſtion?—A. I ſhould imagine ſhe might; not being a Seaman by Profeſſion, I ſhall lead myſelf into Error by anſwering thoſe Queſtions.

Captain Molloy aſked,

Q. On which Side of the Cæſar did the Cæſar fire her Guns into the America?—A. The ſtarboard Guns.

Mr. Thomas Tait, Secretary to Admiral Pringle, called in, and ſworn.

Captain Molloy aſked,

Q. Did you belong to the Valiant in the Action of the Firſt of June?—A. Yes, I was quartered on the Quarter Deck.

Q. Did you ſee the Royal Sovereign engaged with a Three-deck Ship of the Enemy on that Day?—A. Yes, I did.

Q. How was the Valiant ſituated, with reſpect to the Sovereign, at that Time?—A. When I firſt ſaw the Royal Sovereign, the Valiant was then upon her ſtarboard Quarter, cloſing with another Three-decker.

Q. Did you obſerve the Cæſar coming down to the Royal Sovereign before the Wind?—A. I did.

Q. What

Q. What was the relative Situation of the Valiant and Royal Sovereign at that Time?—A. We were then upon the ſtarboard Quarter of the Royal Sovereign, engaged with another Three-decker.

Q. Did you ſee the Three-decker, with which the Royal Sovereign was engaged, bear up from the Royal Sovereign?—A. At the Time I ſaw the Royal Sovereign engaged with a Three-decker, the French Ships were all going from the Wind, and ſo were we at the ſame Time.

Q. I mean the Queſtion to be put as to the cloſe of the Action?—A. I then ſaw the Three-decker bear up from the Sovereign.

Q. Did the Royal Sovereign chaſe that Ship?—A. No, ſhe did not appear to be in a Condition to chaſe that Ship.

Q. At the Time that Ship bore up from the Royal Sovereign, was the Cæſar coming down before the Wind?—A. Yes.

Q. Did you obſerve at that particular Time any Signals flying on board the Royal Sovereign, and if you did, what were they?—A. At the Time I ſaw the Cæſar coming down, I ſaw the Signal, No. 55, flying on board the Royal Sovereign, with the Valiant's Pendant to form a-head or a-ſtern, as moſt convenient; at thirty Minutes paſt Eleven, by my Watch, that Signal was made.

Q. Was there any other Signal flying with it, at that Time?—A. I do not think there was, I did not ſee any.

Q. When the French Ship bore away from the Royal Sovereign, did you obſerve any other Signal made?—A. At twenty Minutes paſt Twelve, the Royal Sovereign made the Signal, No. 102, to cloſe and join him forthwith, the Enemy's Three-deck Ship going off at that Time to leeward, firing at the Defence, and occaſionally at us.

Captain Molloy deſired Part of the Report of the Royal Sovereign to be read.

The Court was cleared, and being again opened, the Part of the Report required by Captain Molloy was directed to be read.

Captain Molloy ſaid, he had rather not have it read.

The Court aſked,

Q. Do you recollect what Sail the Cæſar had ſet when bearing down towards the Royal Sovereign?—A. I think ſhe had Three Top-ſails, the Foretop-ſail appeared to be half down, and Fore-ſail.

Q. Did you ſee the Cæſar ſhorten Sail, and heave to?—A. Yes, I did.

Q. Was this before or after the French Three-decker had bore away?—A. It was after.

Q. Do you know if the Signal was made to cloſe round the Admiral, before or after the Cæſar brought to?—A. It was after.

Sir Roger Curtis aſked,

Q. You have ſaid, that you ſaw the Cæſar ſteering down towards a Three-decker, engaged with the Royal Sovereign, how near did ſhe go to that Three-decker?—A. The Cæſar brought to about a Quarter

of

of a Mile on our Weather-bow; we might be about the ſame Diſtance from the Three-decker, I ſhould think it about half a Mile.

Q. Did the Cæſar fire at the Three-decker engaged with the Sovereign?—A. I don't immediately recollect at that Time; I recollect ſeeing her fire afterwards at the Three-decker that was diſmaſted, and the Three-decker's Shot went over her.

Q. Was it before or after the Cæſar brought to, that ſhe fired?—A. She was brought to at the Time I ſaw her fire.

Q. Was ſhe then to windward of the Valiant?—A. Yes, ſhe was rather upon our Weather-bow; at the Time I ſaw the Cæſar firing, it was between twelve and twenty Minutes paſt Twelve o'Clock.

Q. Was the Three-decker then at a greater Diſtance than you have before deſcribed, half a Mile?—A. Yes, conſiderably.

Q. Was the Three-decker that engaged the Royal Sovereign diſmaſted, or what Maſts had ſhe loſt?—A. She had loſt Main and Mizen-maſts, and the Head of her Foretop-maſt.

The Court aſked,

Q. Do you ſpeak that upon clear Recollection?—A. Yes, poſitively.

Q. Was that her Condition when ſhe bore up?—A. Yes.

Q. Was that her Condition when the Cæſar brought to?—A. Yes, I think it was.

Q. The Cæſar having brought to upon the Weather bow of the Valiant, and you obſerved her to fire at the Enemy from that Situation, did the Cæſar's Shot paſs near the Valiant?—A. I do not know.

Q. Did you ſee another Three-decker of the Enemy bear away?—A. Yes.

Q. Did you know what Ship of the Britiſh Line that Ship had been engaged with?—A. I believe it was the Ship that had been engaged with the Queen Charlotte; the Ship was making off.

Q. When the three-deck Ship that had been oppoſed to the Royal Sovereign bore away, did you then notice the Royal Sovereign particularly?—A Not particularly; I was looking at her every now and then, to look out for Signals.

Q. At or near the Time of the Three-decker going from the Royal Sovereign, did you ſee any Signals flying on board the Royal Sovereign?—A. Yes, I did.

Q. Do you know what thoſe Signals were?—A. Yes; No. 102, the Signal to cloſe and join forthwith; this was at twenty Minutes paſt Twelve; the Cæſar was upon our Weather-bow.

Q. At what Time did the Action ceaſe between the Royal Sovereign and the French Three-decker?—A. I ſhould ſuppoſe ſometime about Twelve o'Clock.

Q. At Twelve o'Clock what Signals were flying on board the Royal Sovereign?—A. I do not remember ſeeing any Signal at that Time.

Q. When the Cæſar brought to on your Weather-bow, did you notice any particular Damages the Cæſar had received?—A. Not any particular, ſomething about her Mizen-maſt; the People were about her Mizen-maſt; they were buſy about the Poop; her Sails were ſhot through; I paid no particular Attention to her.

Mr

Mr. John Lucky, the Maſter of the Cæſar, called in again.

Captain Molloy aſked,

Q. Did you belong to the Cæſar on the Firſt of June laſt, and where were you quartered?—A. I did, and was quartered on the Quarter-deck at the Conn.

Q. Do you remember the Fleet bearing up to engage the Enemy in the beginning of that Day?—A. I do.

Q. When the Cæſar backed her Maintop-ſail to engage, how was ſhe ſituated with reſpect to the Bellerophon?—A. I ſhould imagine nearly right a-head, from the laſt Sight I had of her.

Q. How was the Cæſar ſituated at that Time, with reſpect to the Van Ship of the Enemy?—A. On the Van Ship's Weather Quarter, after the Maintop-ſail was ſet to the Maſt.

Q. Relate to the Court, as well as you can remember, the Proceedings of the Cæſar from the Time ſhe firſt began to fire upon the Van Ship, until the End of the Action.—A. We brought to with the Maintop ſail to the Maſt for five Minutes, or thereabouts; Captain Molloy ordered the Helm to be righted, the Maintop-ſail was then ſhaking; a ſhort Time afterwards Mr. Cleverly, from the Forecaſtle came aft, and ſaid the Van Ship had hoiſted her Jib; upon which Captain Molloy ordered him immediately to go forward, and do the ſame; he ſhortly returned, and ſaid the Halyards or Stay were ſhot away, or ſomething to that Purport; he then ſaid, hoiſt the Foretop-maſt Stay-ſail; in a ſhort Time afterwards I heard ſome one ſay the Signal was out for cloſer Action; Captain Molloy then ſaid to me, and the Men at the Helm, to Port; then he called immediately to put the Helm hard to Port. In Anſwer to me, from the Man at the Helm, the Rudder was chocked, they could not move the Wheel, of which I immediately informed Captain Molloy; he ſeemed to be very much hurt, and went aft with me to the Wheel, and made every Attempt to move it, but found it impoſſible; he then ordered me down to ſee what was the Matter. After I had got about half-way down the Quarter-deck Ladder I came up, and ſaid to Captain Molloy, I think we had better ſhiver the Foretop-ſail, for if the Ship ſhould get before the Wind, we have no After-ſail to bring her to again, by Reaſon of our Mizen-maſt being wounded, and the Mizen-ſtayſail, Stay, and Halyards and Mizen-yard damaged, and no Rudder to command the Ship. I immediately went down, firſt looking out of the larboard Stern Port; finding nothing there, I immediately went to the ſtarboard one; I alſo ſaw nothing there that could affect the Rudder. In coming on the ſtarboard Side of the Mizen-maſt, my Hat was knock'd off by a Rope which was hanging over the Wheel, or Tiller-rope; I immediately got hold of it; I found this Rope in the ſtarboard Midſhip Sheave; I called to two or three of the People to haul it out, but could not move it. I then went upon the Quarter-deck, deſiring them to ſlack the Helm a little, which I believe was done; I then run down again; on my getting at the Foot of the Ladder on the lower Deck, I then heard it was clear; I immediately went up, and informed Captain Molloy that it was clear; he clapped his Hands together, and expreſſed a great Deal of Joy, and called out hard a-Port; I alſo repeated the Words,

and

and went aft myſelf to the Wheel, the Captain repeating the Words over and over; he came aft to ſee if the Helm was cloſe over, and ordered me to run him cloſe down on board of the Van Ship, which was attempted to be done; but finding at that Time the Van Ship was edging away, we ſtill engaging, which we did for ſome Time, the Smoke being ſo thick at laſt we could not ſee her; he then ordered us to leave off firing, to ſee our Opponent, which was then ſtill edging away, and we engaging of the ſecond Ship of the Van, which in a ſhort Time alſo bore up with all the Sail ſhe could; we bore up after them; in the Act of ſo doing, we fell in with the third Ship with her Foremaſt gone, whom we fired at; in a ſhort Time after I heard a great Cruſh, which I found to be the third Ship's Main-maſt and Mizen-maſt going overboard; the Captain then ordered them to leave off firing, ſomebody having ſaid ſhe had hauled her Colours down; but I heard immediately after that ſhe had hoiſted them again; we then fired at her, and I heard ſhe had ſtruck a ſecond Time. Captain Molloy then ordered me to run him down to that Ship, pointing to a Three-decker then engaging with the Royal Sovereign, at which ſhe fired a few Shot; ſhe then had made Sail, and in the Act of running away; the Signal was out to cloſe round the Admiral, but on board which Ship I cannot ſay; we then brought to.

Q. Was the Cæſar fired at by any of the Enemy's Ships before ſhe was properly placed to begin with her Opponent?—A. Yes, ſhe was.

Q. Did ſhe immediately return their Fire?—A. No.

Q. Did I give you any particular Directions when the Ship was going into Action, about carrying me cloſe to our Opponent?—A. Yes, running cloſe down alongſide the Van Ship.

Q. Upon finding the Rudder fixed, did I give any Directions about anſwering the Signal for cloſer Action; and do you remember whether it was anſwered?—A. I heard Captain Molloy give Orders to hoiſt the anſwering Jack, and heard him ſay that it was made in a very unlucky Time, and heard him alſo aſk afterwards if they had anſwered the Signal; which was anſwered, it was up.

Q. Did the Cæſar ceaſe to engage the Van Ship of the Enemy from the Time ſhe firſt opened her Fire upon her, until that Ship was beat out of the Line, except as you have obſerved for the Purpoſe of letting the Smoke clear away?—A. Not for one Minute, to my Recollection.

Q. Did the Cæſar during the Action engage the ſecond Ship of the Enemy, before ſhe bore up out of the Line?—A. She did.

Q. Was the Bellerophon at any one Time ſo far advanced upon the Cæſar, as to render it likely for the Cæſar to fire into or over the Bellerophon?—A. I never ſaw the Bellerophon during the Time of engaging theſe Ships, nor for ſome Time after we had bore away, and ſhe was then upon our ſtarboard Quarter with her Fore-topmaſt gone; the Action was then over.

Q. At what Period of the Action was the Cæſar at the greateſt Diſtance from her Opponent?—A. When the Rudder was choaked, or the Wheel Rope, as I have ſaid, which, I think to the beſt of the View I had of her, could not be three Cables Lengths.

Q. Do you remember at any Period of the Action that the Bellerophon was immediately between the Cæſar and the Enemy?—A. I never ſaw her; but had ſhe been in that Situation I certainly muſt.

The Court aſked,

Q. Did you ever look for the Bellerophon during the Action?—A. Never.

Captain Molloy aſked,

Q. In what Manner did the two Van Ships of the Enemy go off, and what Attempt did the Cæſar make to follow them?—A. They went off with all Sails ſet, the Top-gallant-ſails and all; the Sails appeared to be cut; we ſet our Fore-ſail; this was after the firſt Ship; the ſecond Ship, the Maintop-maſt Stay-ſail; and the Halyards and Stay were ſhot away by the ſecond Ship.

The Court aſked,

Q. Under what Sail did the Enemy engage?—A. They appeared to me to have double-reefed Top-ſails.

Q. How was the Fore-ſail ſet?—A. I do not know.

Captain Molloy aſked,

Q. Did the Van Ships haul upon the ſtarboard Tack as they went off?—A. Juſt after we had left off firing on the third Ship of their Van, which was the laſt View I had of them, they appeared to me to be nearly before the Wind, and from my former View the headmoſt Ship had hauled to the Eaſtward; they were both in one Line when I ſaw them laſt.

Q. Was the Cæſar in a State to afford the leaſt Probability of coming up or keeping up with thoſe Ships?—A. It was impoſſible for her to keep up with them, they both ſailed faſter, and we having no Foretop-ſail hoiſted; it was on the Cap.

Q. Deſcribe the Damages of the Cæſar at the Time the two Van Ships bore up.—A. The Mizen-maſt had received a Shot previous to her coming into Action; the Mizentop-ſail-yard was wounded; the croſs Jack-yard, the Mizen-yard in three or four different Places; two Pair of the Mizen-ſhrouds, Main-ſtay, the Main-ſpring-ſtay wounded, the Main and Foretop-maſt-ſtay ſhot away, either four or five Pair of the Main-ſhrouds, and one of the Swifters, and the greateſt Part of the Fore-ſhrouds, and moſt all the Back-ſtays of the ſtarboard Side were ſhot away; the Mizen-ſtay-ſail, Stay, and Halyards, and Foretop-ſail Ties were ſhot away, and a great Quantity of running Rigging; the Mizen-maſt was wounded in two Places.

Q. Did you hear the Officers and People upon the Poop call out to me that the Mizen-maſt was fallen?—A. Yes, I did, and looked at it, and moved myſelf to the other Side of the Grating for fear it ſhould, expecting it to fall every Inſtant.

Q. Do you remember the Ship's Company quitting their Guns, and running upon the Booms, and giving three Cheers?—A. I do.

Q. At what Time?—A. At the Time the third Ship of the Van hauled her Colours down, I think it was then.

Q. Had you any Doubt of the Van Ship of the Enemy's having been driven out of the Line by the Fire of the Cæſar?—A. The Cæſar certainly beat the Van Ship out of the Line, for no other Ship could poſſibly fire on her.

Q. Having

Q. Having ſaid you have been in Action ſeveral Times before the Twenty-ninth of May laſt, and being therefore capable of judging of an Officer's Conduct in Action, inform the Court what your Opinion was of mine from the Beginning to the End of the Action of the Firſt of June?—A. I never ſaw a Ship in my Life ſo well prepared, nor Men better inſtructed, previous to our coming into Action; nor no Perſon could be cooler nor more collected, nor give his Orders with greater Preciſion, nor behave with more Valour at all Times during the Action, nor have greater Zeal to do his Duty to his King and Country than Captain Molloy.

Q. Did the Cæſar in your Opinion take a proper Poſition to begin the Action, and was every Exertion made to cloſe with and defeat the Enemy on the Firſt of June?—A. Yes.

The Court aſked,

Q. From your being Maſter of the Ship, and having the Charge of ſteering the Ship, did any Thing occur to you as a Seaman, as you found the Rudder not unſerviceable, and only the Tiller Rope jammed, while you were in the Gun Room, that the Cæſar might not have been ſteered down cloſe to the Enemy, in Obedience to the Signal then made, inſtead of laying with your Topſails a-back, and ſhivering and increaſing your Diſtance from your Opponent?—A. Not any Thing as I know of.

Q. Had you any relieving Tackles ready?—A. Yes, they were ſtretched along.

Q. Might not the Tiller Rope have been caſt looſe, ſo that you might have ſteered with the relieving Tackles, or even with the Rudder Pendants?—A. Certainly the Wheel-rope might have been caſt off, but the Matter did not ſtrike me or any one elſe at that Moment.

Q. How long did the Difficulty ſubſiſt?—A. I ſhould think nearly half an Hour.

Q. Did you ever hear of a Ship's being ſteered by the relieving Tackles in Action?—A. I have heard of it, but never was at the doing it, having been but in one Line of Battle Ship before in Action.

Q. On your going firſt into Action, you ſay you was nearly right a-head of the Bellerophon, explain what you mean by nearly.—A. From my laſt View ſhe muſt have been upon the Lee-quarter, the leaſt poſſible.

Q. In what Poſition was the Cæſar from the Bellerophon, when they were able to ſteer the Cæſar again?—A. I did not ſee the Bellerophon till the Action was over

Q. Did the Cæſar, or Bellerophon, get firſt into Action?—A. The Bellerophon, and the Cæſar ſome Minutes after.

Q. Did you ſee the Leviathan during the Action?—A. I don't recollect I did.

Q. Did you ſee the Ruſſel during the Action?—A. I don't recollect I did.

Sir Roger Curtis aſked,

Q. When the Bellerophon commenced her Fire upon her Opponent,

Q. When you firſt ſaw her with the Wind upon the larboard Quarter, as you have before ſtated, was her Fore-maſt then ſtanding?—A. It was gone.

Q. If her Fore-maſt was then gone, while the Wind was upon the larboard Quarter, and the Wreck, and Sails hanging over the ſtarboard Bow, as you ſuppoſe, would not the Sails, with the Ship in that Situation, have rather impeded her wearing than aſſiſted her?—A. Not ſo much as if it had been on the other Bow.

Q. While ſteering down large towards the Three-decker, did the Cæſar fire at her?—A. She fired ſome Guns.

Q. What Guns could ſhe bring to bear upon her, in ſteering down large?—A. I'll not be poſitive which were the Guns.

Q. Can you ſay from which Side of the Cæſar thoſe Guns were fired?—A. From the ſtarboard Side.

Q. Did the Cæſar fire at that Ship after the Cæſar hauled her Wind?—A. I ſhould think not, when ſhe came to the Wind no Guns could bear upon her.

Q. Upon what Tack did the Cæſar come to the Wind?—A. We hauled a ſhort Time upon the larboard Tack, and then wore, and laid to upon the other.

Q. Was the Mizentop-ſail of the Cæſar ſet at theſe Times?—A. Yes, it was.

Q. If the Mizen-maſt was in ſuch a Situation, that you got out of its Way for fear of its falling upon you, how came the Mizentop-ſail to remain ſet during theſe ſeveral Movements of the Cæſar, hauling upon one Tack, and then wearing round upon the other?—A. It was lowered down immediately upon hauling the larboard Tack, and the Mizen-yard got down immediately, which was afterwards taken to fiſh the Mizen-maſt.

Q. Was it lowered down before you hauled upon the larboard Tack?—A. To the beſt of my Recollection it was not.

Q. Did you ſee the two Van Ships of the Enemy haul upon the ſtarboard Tack?—A. I did not.

Q. You have ſaid that the Foretop-ſail-yard came down on the Cap, on Account of the Tie being ſhot, were the Slings of the Yard ſhot alſo?—A. The Top-ſail-yards were not ſlung.

Q. In the Experience you have had in the Navy, has it not been uſual to ſling the Top-ſail-yards previous to a Ship's going into Action?—A. Yes, in fine Weather.

Q. What was the Objection to ſling them in the Weather of the Firſt of June?—A. It appeared to me rather ſqually and hazy.

Q. Were there any Squalls on the Firſt of June, that a Ship might not have carried double reef'd Top-ſails, by the Wind, at any Time during that Day, and I will add, with her Courſes, Jib, and Stay-ſail?—A. No, there was none; the firſt of the Morning, to the beſt of my Recollection, it blew freſh, about S. and by E. and moſt of the Ships were with their treble reef'd Top-ſails.

Q. You have ſpoken of Damages received on board the Cæſar; I aſk you if when Ships are engaged in Line of Battle, is not a Ship, the more ſhe is Diſtant from the Enemy's Line, if ſhe is within Shot of it, more liable to be diſabled therefrom, as being ſubject to receive the

Fire

Fire of more than one Ship at a Time, than if ſhe was cloſe alongſide her Opponent?—A. There is not the leaſt Doubt of it, but ſhe muſt receive more Damage from two Ships than from one.

Q. You have ſaid the Cæſar beat the Van Ship of the Enemy out of the Line, do you conſider a Ship to be beat, that is able to go off with her Top-gallant-ſails, and all Sails ſet?—A. I don't think but that ſhe muſt have received Damage in the Hull, though not apparently in the Sails; I am ſure ſhe muſt have received a great Deal in her Hull.

Q. To the beſt of your Judgment, what was the Diſtance of the Cæſar from the Van Ship of the Enemy, her Opponent, when ſhe brought to to engage her?—A. Within three Cable's Lengths, I think, by Appearances.

Q. Do you think three Cable's Lengths is the propereſt Diſtance for engaging an Enemy, with a View to a ſpeedy and deciſive Defeat?—A. I am really not a Judge in that Point, I ſhould imagine not.

Q. Did you obſerve the Three-decker which was engaged with the Royal Sovereign, bear away?—A. She was in the Act of running away when I ſaw her.

Q. What Maſts had ſhe then ſtanding?—A. To the beſt of my Recollection, they were all ſtanding, I will not be poſitive.

Q. Did you notice what Sail ſhe had ſet?—A. I did not take any particular Notice.

Half paſt Three o'Clock the Court adjourned till Nine o'Clock to-morrow Morning.

Nine o'Clock in the Morning, 10th May, the Court met according to Adjournment.

Mr. William Holmes, Carpenter of the Cæſar, called in again.

Captain Molloy aſked,

Q. Were you Carpenter of the Cæſar on the Firſt of June?—A. I was.

Q. Relate to the Court the Cauſe of the Obſtruction of the Rudder, and the Damages the Ship ſuſtained on that Day?—A. Captain Molloy ſent to me from my Quarters, I was in the ſtarboard Wing: I went on the Quarter Deck, Captain Molloy told me the Rudder was choaked; he begged I would uſe every Exertion in my Power to clear it; I went and examined the Rudder out of both Gun-room Ports, found it was not choaked by a Shot: I then examined the Tiller, till I came to the Sweep, and examined the Sweep alſo; as I was going up towards the Ward-room, one of the Officers ſaid here it is, and it was three Parts of the Port Tackle-fall was in the ſtarboard Sheave of the Midſhip Block, the Bite of the End of the Fall was in the Sheave. Lieutenant Cleverly and myſelf, called out for them to move the Tiller; he ran up the Ladder, left me and the Maſter with the Boatſwain, Lieutenant Hodder; ſeveral of the Men broke off from their

their Guns, and we hauled the Fall out of the Block, and the Helm was put up before I left the Gun-room.

Q. Did you obſerve in what Direction the Tiller was at the Time you deſcribe the hauling out the Port-tackle-fall from the Midſhip ſheave?—A. I did, the Tiller was a little to Port.

Q. Relate the Damages?—A. The Mizen-yard was ſhot through in three Places; the Mizen-maſt received two large Shot in it, one knocked away about the Third of the Maſt from the Fore-part, the other through the Centre, about two Feet above it; the Mizentop-ſail Larboard-yard-arm was ſhot away, and the Croſs-jack Larboard-yard-arm was about half ſhot away; we received about Sixty-four Shot on the ſtarboard Side, of all Sorts, Double-head, Round, and Grape; ſeveral Parts of her Decks were damaged, two or three Knees ſhot away.

Q. Was any Thing the Matter with the Main-maſt?—A. There were four Shot in the Main-maſt; we had an Upper Deck Port timber ſhot away; the Combings of the Hatchway, the Breaſt Beam of the Round Houſe was broke; the Rudder was much ſhattered, one Shot in the Fore-maſt, and one in the Bowſprit, ſeveral through the Boats, and a Number in the Booms; the Jib-boom, and Maintop-maſt on the Booms, were ſhot; the Main-top, and Main-cap, were wounded; I believe the former on the Twenty-ninth of May.

Q. Do you think the Mizen-maſt was in a Situation to enable any Sail to have been carried on?—A. It was impoſſible to carry any Sail at all on that Maſt, till it was fiſhed.

Q. When I ſent for you on the Quarter Deck, ſome Time before the Action ceaſed, and gave you Orders to ſecure the Maſt as faſt as poſſible, when lowering down the broken Part of the Mizen-yard, were you not apprehenſive that the Maſt was going over the Side, and called to me for that Purpoſe?—A. I was apprehenſive it would go over the Side, before the Mizen-yard could be lowered down.

Q. Was there a ſpare Tiller in the Ward Room, placed, and ready fitted in Caſe of Neceſſity?—A. There was, the whole of the Cruize.

Q. Was there Fore and Aft the Ship, in the Wings, and every Part of her, every Precaution taken, and every poſſible Remedy at Hand, to repair and ſupply any Accident or Difficulty that might have been occaſioned in the Action?—A. There was, as far as Man could recollect, I believe.

Q. Did I, prior to the Action, and frequently, viſit the Wings myſelf, and the Store Rooms myſelf, to ſee they were in that Order?—A. You did, daily.

Q. When going down to the Three-decker engaged with the Royal Sovereign, were you then employed in fiſhing the Mizen-maſt, and had you any Orders to exert yourſelf, and your Crew, in repairing the Damages, and refitting the Ship as faſt as poſſible for renewing the Action?—A. I was, and had your Orders to repair the Damages.

Q. With what was the Mizen-maſt fiſhed?—A. With the upper End of the Mizen-yard.

Sir Roger Curtis aſked,

Q. You have mentioned two Shots having ſtruck the Mizen-maſt on

on the Firſt of June, were both theſe Shots received in the Maſt on the Firſt of June?—A. Yes, both.

Q. You ſay you was apprehenſive of the Mizen-maſt falling on the lowering down the Yard, was the Mizentop-ſail then ſet?—A. I don't know.

Mr. Thomas Seeds, Surgeon of his Majeſty's Ship Namur, late of the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you Surgeon of the Cæſar in the Action of the 29th of May, and on the Firſt of June?—A. I was.

Q. How many Men had the Cæſar killed and wounded, to the beſt of your Recollection, on the 29th of May?—A. I can't ſpeak to my own Knowledge with reſpect to the killed; I ſaw two Men brought into the Cock-pit on the 29th of May, one lived two or three Minutes after he was brought down, and the other ten Minutes, or a Quarter of an Hour; in my Liſt of wounded there were Seventeen on that Day.

Q. On the Firſt of June (as you cannot ſpeak to the Number killed) how many were there in your Liſt of wounded?—A. On that Day, after the Action, I gave in a Liſt to Captain Molloy of Forty-four wounded; as it was ſo ſoon after the Action I found the Liſt not correct, as there were eight or nine more wounded; there were about Seventy wounded on both Days.

The Court aſked,

Q. Were thoſe Men wounded by the Exploſion of the Guns, or by the Enemy's Shots?—A. Some of them no doubt, but how many, or how few, I cannot determine.

Sir Roger Curtis aſked,

Q. In the Number of wounded on the Firſt of June, were any of them in a Condition that they could have gone to their Quarters?—A. I dare ſay there were; but how many, or how few, I cannot tell, as I did not attend Captain Molloy at the Muſtering at the Quarters.

Mr. John Fitmore, the Gunner, called in again.

Captain Molloy aſked,

Q. Were you Gunner of the Cæſar in the Action of the Firſt of June?—A. I was.

Q. Relate to the Court the Damages done in your Department on that Day?—A. One twenty-four Pounder was burſt by Accident in the Action, and ſeven other Guns diſabled by the Enemy's Shot; one thirty-two Pounder, one twenty-four Pounder, and five twelves.

The Court aſked,

Q. Do you mean the Guns, or the Carriages?—A. Either the one or the other.

Captain Molloy aſked,

Q. Have you ever been in Action before the 29th Day of May?—A. I have.

Q. Was the Cæſar in every reſpect properly prepared for Action, in your Department, by my Directions?—A. She was perfectly ſo.

Q. Do you recollect, prior to both Actions, any Arms being loaded and fixed in my Stern-gallery?—A. On the Firſt of June, early in the Morning, I remember perfectly your ſending for me, and ordering two hundred Stands of ſmall Arms to be got in your After-cabin, or Stern gallery, and charged with Ball-cartridge, obſerving you intended to go cloſe to the Enemy, and they may be of Uſe.

Q. Do you recollect my ſaying any Thing to you, that as we had the Weather-gage, if our Yards went away, any Thing further about the ſmall Arms?—A. You ſaid ſomething about Yards, but the particulars I cannot remember.

Q. Do you recollect, a ſhort Time prior to the Action, my going fore and aft the Decks, to encourage and exhort the People to do that Duty they owed their King and Country, to the utmoſt of their Power, and alſo giving them particular Directions relative to the pointing and ſhotting of the Guns?—A. I do, perfectly, becauſe I accompanied you; you exhorted the People to behave like Britiſh Seamen, requeſting them to point their Guns well, obſerving to them you intended to go very near the Enemy; on your Return from the Lower-deck to the Quarter-deck the People cheered you, and ſaid, they were determined to ſtand by you to the laſt.

Q. After the Firing ceaſed, on the Firſt of June, were you ſent for by me, and ordered to give me a Return of the Number of the filled Cartridges in both Magazines?—A. I was, and when I told you the Expenditure that had been made, you ordered me to the Magazine, to fill with all poſſible Expedition, pointing to the Enemy to leeward, and obſerving, you expected to be in Action very ſoon again.

Q. During the Time you had an Opportunity of obſerving me in the Action of the Firſt of June, did it appear to you that I was doing my Duty, and exerting myſelf to the utmoſt of my Power to defeat the Enemy?—A. You gave your Orders with the greateſt Deliberation to me, and appeared to be animated with the moſt ardent Zeal for the good of his Majeſty's Service.

Lieutenant Jones, of the Cæſar, called in again.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. I was, and quartered on the Main-deck, at the ſeven foremoſt Guns.

Q. Do you recollect the Fleet bearing up to engage the Enemy on that Day?—A. Yes.

Q. Was the Cæſar fired at by the Enemy at any Time before ſhe returned their Fire?—A. Yes, I think I may with Safety ſay for fifteen Minutes.

Q. Do

Q. Do you recollect ſending to me from your Quarters, or coming to me yourſelf, to aſk Permiſſion to return the Fire of the Enemy, as it was very heavy on us, and ſome People had been carried down below?—A. Yes, ſeeing the People very anxious to begin, I aſked Captain Molloy, who was then on the Gangway, for Permiſſion to fire, to which he replied, No, not until he had placed the Ship.

Q. Do you remember the Cæſar backing her Maintop-ſail to commence the Action?—A. Yes.

Q. How was ſhe then ſituated with reſpect to the Bellerophon?—A. I don't know.

Q. How was the Cæſar ſituated with reſpect to the Enemy's Van Ship?—A. We were about two Cables and a half to windward of her, ſhe being at that Time before our Beam.

Q. Relate to the Court, to the beſt of your Memory at this Diſtance of Time, the Proceedings of the Cæſar, from the Time ſhe began to engage the Van Ship, until all firing ceaſed.—A. Shortly after we began to fire, Captain Molloy came to the Gangway, and ordered the Fire to ceaſe, ſaying, he could not ſee for Smoke; on the Smoke clearing away, I obſerved the Van Ship of the Enemy had hoiſted her Jib, and edged away; Captain Molloy called out to Port the Helm, from what Cauſe I do not know, but the the Ship did not anſwer her Helm; Captain Molloy repeated the Orders, and cried out, hard a-port. Finding the Ship did not anſwer the Helm, I aſked Permiſſion to recommence firing, which I obtained, and continued firing for ſome Time, when Captain Molloy came a ſecond Time to the Gangway, ſent for me, and ordered the Firing to ceaſe, ſaying, he was going cloſe down to the Enemy, and ordered me to reſerve my Fire. In a ſhort Time after we were cloſe down, our Opponent bore up; we then continued firing on the ſecond Ship of the Enemy's Van; ſhe alſo bore up: ſhortly after we opened our Fire on a Ship with her Foremaſt gone, and in the Courſe of a Broadſide or two (ſhe being before very much diſabled) carried away her Main and Mizen-maſt; after which we ceaſed firing for ſome Time, and ſet the Fore-ſail. Captain Molloy being then on the Gangway, I aſked him what Ship we were going to engage next; he pointed at a Three-decker, engaged with the Royal Sovereign, and ordered me to point the Guns forward; by the Time we had got within a long Shot of her, ſhe bore up, but not till after we had fired ſome Guns at her; I then heard the Signal was made to cloſe round the Admiral, and we brought to.

Q. After the Obſtruction, or whatever it was that prevented the Ship from anſwering her Helm, do you recollect what Steps were taken to cloſe with the Van of the Enemy?—A. We bore up, and went down, cloſe down to her.

Q. When bearing down upon that Ship did you ſend to me, or make any Application yourſelf, for ſmall Arms to fire out of the Ports, and did the People call out for half Pikes?—A. Yes, I ſent for ſmall Arms, but did not hear any Application about the Pikes.

Q. Have you any Doubt of the Van Ship of the Enemy having been driven out of the Line by the Fire of the Cæſar?—A. No.

Q. Did the Cæſar engage the ſecond Ship of the Enemy's Van, before that Ship bore out of the Line alſo?—A. Yes.

Q. Was the Bellerophon at any Time ſo far advanced upon the Cæſar, as to render it likely for the Cæſar to fire into, or over the Bellerophon?—A. No, not that I ſaw.

Q. In what Manner did the two Van Ships go off, and what Attempt did the Cæſar make to follow them?—A. After they had bore up I ſaw nothing of them; the Cæſar was too much diſabled to follow any Ship.

Q. Do you remember the Ship's Company leaving their Quarters, running up on the Booms and Gangway, and giving three Cheers, and what was the Cauſe of their ſo doing?—A. They cheered on the Van Ship, our Opponent, bearing up.

Q. Did you take any Steps to prevent their cheering, as the Van Ship was then firing at her?—A. Yes, by Captain Molloy's Orders I came on the Gangway, drew my Sword, and ordered them down again to their Quarters.

Q. Did the Cæſar appear to you to have taken a proper Station to begin the Action on the Firſt of June, and was every Exertion made afterwards to defeat the Enemy? - A. The firſt Part of the Queſtion is of ſuch Magnitude that I muſt decline to anſwer it, as it depends on ſo many Circumſtances that I am unacquainted with; every Exertion was made afterwards to defeat the Enemy.

Q. As you had repeated Opportunities of ſeeing me from the Gangway, and received ſeveral Orders from me during the Action, did it appear to you that I was acquitting myſelf of that Duty I owed my King and Country, in the Situation I was, as a Captain of a Britiſh Man of War?—A. As far as I am capable of judging it did.

Q. Prior to the Action in the Morning of the Firſt of June, did I viſit your Quarters, and give any Directions to the People, or exhort them to do their Duty to their King and Country?—A. Yes, and ordered the Captains of the Guns to put their Hand on the Gun to feel when they were heated, and then not to put in more than one Shot; and you alſo ſaid you meant to go ſo cloſe down, that they would have no Occaſion to elevate their Metal; on Captain Molloy's leaving their Quarters, the Ship's Company gave him three Cheers.

The Court aſked,

Q. Inform the Court what prevented your ſeeing the two Van Ships of the Enemy after they bore up?—A Being on the Main-deck, after the Van Ship had paſſed her Second, which was firing on us, I could not ſee her for Smoke; when the ſecond Ship bore up we were in ſo diſabled a State as not to follow her, and opened our Fire on the third Ship in the Enemy's Van, and that took my Attention off.

Q. Did you ſee the Bellerophon, or Leviathan, when you ſaw the ſecond Ship of the Enemy's Van bear up, and came to fire on the third Ship?—A. No, neither.

Q. Then you ſuppoſe the Enemy's Fire of the ſecond Ship was totally directed towards the Cæſar?—A. I believe it was.

Q. What might be the Diſtance of Time, to the beſt of your Recollection, from the bearing up of the ſecond Ship, to your opening your Fire on the Third?—A. A few Minutes, I cannot exactly ſay.

Q. Did

Q. Did you ever ſee the Bellerophon, or Leviathan, during the Action, and how were they ſituated, and at what Time?—A. I ſaw the Bellerophon when our Helm was put up, and we cloſed with our Opponent; we paſſed her at that Time; I ſaw her about our ſtarboard Cheſt-tree.

Q. Was ſhe then in Action, and with what Ship?—A. Yes, but I do not know with what Ship; ſhe was keeping up a very heavy Fire, and I never ſaw her afterwards; I did not ſee the Leviathan at all.

Q. Was the Cæſar at this Time engaging?—A. Our firing was ſtopped as we paſſed the Bellerophon, and opened immediately afterwards.

Sir Roger Curtis aſked,

Q. You have ſaid that the Cæſar brought to to engage the Van Ship of the Enemy, her Opponent, at the Diſtance of about two Cables and a half to windward of her; did you eſtimate that Diſtance from the View of that Ship out of your Ports?—A. Yes.

Q. You have ſtated that when you brought to to engage, your Opponent was before the Cæſar's Beam; how much was ſhe before the Cæſar's Beam?—A. A little, a couple of Points, or a Point, it might have been.

Q. Would not the Cæſar have been in a more ſuitable Situation for Action, if ſhe had been a-breaſt of her Opponent?—A. I cannot judge; but at that Time we were receiving the Fire of the ſecond Ship of the Enemy's Van alſo.

Q. If the Cæſar had been a-breaſt of her Opponent, would ſhe not have been leſs ſubject to Annoyance from the ſecond Ship?—A. Yes, I think ſhe would.

Q. How near were you to the third Ship of the Enemy's Van, when you fired at her, to the beſt of your Judgment?—A. A little within a Cable's Length.

Q. Did you fire at her in paſſing, at the Diſtance of a Cable's Length?—A. We fired at her at the Diſtance of a Cable's Length, till her Maſts went over the Side; then ceaſed firing, and paſſed on to the Ship that was engaging with the Royal Sovereign.

Q. Did you fire at the Three-decker engaged with the Royal Sovereign, after the Cæſar hauled to the Wind?—A. No.

Q. What Guns could you bring to bear on her, ſteering down large towards her?—A. Our ſtarboard Guns, keeping her open a little to windward, then having the Wind on the ſtarboard Quarter.

Q. Did you ſee the Three-decker, the Royal Sovereign's Opponent, bear up?—A. Yes, and fired ſome long Shots at her, as ſhe was making off.

Q. In what Condition did ſhe appear, in reſpect to Damages, when ſhe bore up?—A. Her Maſts were ſtanding, but ſuppoſe ſhe muſt have been very much damaged, from the heavy Fire I ſaw kept on her.

Q. Did you ſee more than one Three-decker of the Enemy bearing up about that Time, and from about the ſame Situation?—A. I can't be certain, but think I did.

Q. Do

Q. Do you recollect enough to know whether her Maſts were all ſtanding?—A. I think one of her Maſts were gone.

Q. Are you quite ſure that the Ship which you ſaw with one of her Maſts gone, might not have been the Ship that was engaged with the Royal Sovereign?—A. The Ship that engaged the Royal Sovereign had all her Maſts ſtanding when ſhe bore up.

Q. Did you ſee the Signal made on board the Royal Sovereign for cloſing round the Admiral?—A. I heard it was made, but do not recollect ſeeing it.

Q. Did the Cæſar haul to the Wind before that Signal was made, or afterwards, to your Knowledge?—A. After I heard it was made.

Q. For what Purpoſe did you require ſmall Arms at your Quarters?—A. Having no Gun in the Bow-Port, I thought it would be a good Place to pick the Enemy off out of.

Q. You have ſaid that the Cæſar's Company cheered upon the Van Ship of the Enemy bearing up, did the Van Ship of the Enemy fire upon the Cæſar after ſhe did bear up?—A. Not that I remember.

Q. You have ſaid that the Cæſar was in ſo diſabled a State, when the Van Ships of the Enemy bore up, that ſhe was unable to follow them; was you at that Time informed of the particular Diſability of the Cæſar, or did you acquire the Information of it afterwards?—A. Before we came to Action I was informed that the Mizen-maſt was nearly gone; upon looking up from the Waiſt, as we brought to, I obſerved it totter very much; after the Van Ship had bore up, I obſerved the Mizen-yard gone, and all the Rigging a-baſt ſeemed very much cut indeed.

Lieutenant Cleverly called in again.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. I was quartered on the Fore-caſtle.

Q. Do you recollect the Fleet bearing up to engage the Enemy on that Day?—A. I do.

Q. Was the Cæſar fired at by the Enemy for any Time before ſhe returned their Fire, and was any Damage ſuſtained thereby?—A. She was fired at by the firſt and ſecond of the Enemy's Van for ſome Minutes; before we brought to to engage the Van Ship, a Shot ſtruck the Mizen-maſt, and I thought it would have gone over the Side, as the Maſt ſhook very much.

Q. Do you remember the Cæſar backing her Maintop-ſail to commence the Action?—A. Yes, I do.

Q. How was ſhe ſituated with reſpect to the Bellerophon?—A. Nearly right a-head, as near as I could poſſibly judge.

Q. How was ſhe ſituated with reſpect to the Van Ship of the Enemy?—A. Rather a-baft her Beam.

Q. At what Diſtance do you imagine the Cæſar began to engage the Van Ship of the Enemy?—A. It ſtruck me at the Time, at the Diſtance of about two Cables and a half.

Q. Relate

Q. Relate to the Court, as well as you can recollect at this Diſtance of Time, the Proceedings of the Cæſar, from the Time ſhe began to engage until all firing ceaſed?—A. We opened a very heavy and well directed Fire upon the Van Ship; a ſhort Time after I obſerved, on the Smoke clearing away, that we had dropped a little, and were receiving the Fire of both Ships: Captain Molloy ordered the Maintop-ſail to to be filled; the Maintop-maſt Stay-ſail was hoiſted, and ordered to hoiſt the Foretop-maſt Stay-ſail, at the ſame Time giving me particular Orders to keep my Eye upon the Van ſhip, and let him know when ſhe made or ſhortened Sail, as he often could not ſee for Smoke from the Quarter Deck; in a few Minutes after, we ranged up with her again, and backed the Maintop-ſail; we brailed the Main-top-maſt Stay-ſail up, and hauled down the Foretop-maſt Stay-ſail, which we did ſeveral Times afterwards, making and ſhortening Sail to keep up with the Van Ship; ſome Time afterwards he ſent for me aft, and ſaid, Damme, Cleverly, the Rudder is choaked, and appeared very anxious to have it cleared, and ordered me down to ſee in what Manner it had been choaked. I went down on the Lower Deck, looked out of the larboard Stern-port, ſuppoſing a Shot had got between the Stern-poſt and the Rudder; but ſeeing it all clear on that Side, I went over, and looked out of the Stern-port, and obſerved that a Shot had ſtruck the after Part of the Rudder; as the Carpenter was near me, I aſked him if he thought that could be the Cauſe of it: he ſaid no, it was impoſſible; I then concluded ſomething muſt be the Matter with the Blocks which the Tiller-rope leads through. I went forward, and looked at the Block at the Side, then a Mid-ſhips, and obſerved three Parts of a Port Tackle fall, had jammed the Tiller-rope in the Block. I got ſome Men, and endeavoured to clear it, but could not: I then called up the after Hatchway, for them to ſhift the Helm; but finding they could not hear me, I made another Effort to clear it, but found that unſucceſsful; on going up the Quarter Deck Ladder, I heard the Man at the Wheel ſay, all is clear, and in the Act of putting the Helm up, and Captain Molloy was exerting himſelf to get the Head-yards braced abaft, to fill the Foretop-ſail; the Maintop-maſt Stay-ſail-ſheet was hauled aft; I juſt got the Length of the Fore-caſtle, when I received Orders to hoiſt the Jib, but I told him the Halyards and Sheet were ſhot away, but the Foretop-maſt Stay-ſail was ready, which was immediately hoiſted, and we bore down, and engaged the Van Ship cloſe, and never quitted her till ſhe bore up; we then kept away, and fired on the ſecond Ship, which in a few Minutes gave way alſo; we then bore up ſtill more, and I obſerved a Ship with her Fore-maſt gone, apparently with the Wind, nearly on the larboard Quarter, making off; we began to fire on her; in a few Minutes after, her Main and Mizen-maſt went over the Side; we run down under her Stern, ſhe apparently with the Wind on the Starboard Beam, and looked as if ſhe was in a ſinking State. I went aft on the Quarter Deck to Captain Driffield, and deſired him, for God's Sake, not to ſuffer the Men to fire into her, as the Ship was ſinking; we then ſet our Fore-ſail and Maintop-maſt Stay-ſail; I then obſerved the Royal Sovereign engaged with a French Three-decker, and our Head pointed to them, with an Intention, as I ſuppoſed, to ſupport her; a ſhort Time after, the French Three-

Three-decker bore up before the Wind, and went off with two others; a ſhort Time after, the Signal was made, as I underſtood, for the Fleet to cloſe round the Admiral; we ran down a ſhort Time, and then hauled our Foreſail up, and brought to; at this Time the Signal 80, to bring to on the ſtarboard Tack, was flying.

Q. Did the Cæſar ceaſe to fire at the Van Ship at any Time during the Action, except for the Purpoſe of letting the Smoke clear away, the better to diſcern her Object?—A. We never ceaſed firing, but we fired at the ſecond Ship a few Minutes, while the Tiller was clearing.

Q. Was the Bellerophon, at any Time during the Action, ſo far advanced upon the Cæſar, to render it likely for the Cæſar to fire into or over the Bellerophon?—A. No, never.

Q. To what did you attribute the Van Ship of the Enemy bearing away?—A. To the heavy Fire of the Cæſar upon her.

Q. Did the two Van Ships haul upon the ſtarboard Tack, after they had bore away?—A. They appeared to me to go away with the Wind on the ſtarboard Quarter.

Q. Was the Cæſar, according to the beſt of your Judgment, in a State to have purſued thoſe Ships, after they had bore away, with any Probability of coming up with them?—A. I think not, from the diſabled State of the Cæſar.

Q. Do you remember the People getting upon the Booms, and giving three Cheers, and on what Occaſion was it?—A. I do not recollect their Cheering.

Q. Did the Cæſar appear to you to have taken a proper Station to begin the Action, and was every Exertion made afterwards to defeat the Enemy?—A. Yes, as we brought to a-head of the Bellerophon, I thought it was a proper one.

Q. As you ſaid you have been in ſeveral Actions prior to the 29th of May laſt, and of courſe competent to judge of the Conduct of an Officer in Action, I beg you to relate to the Court your Opinion of my Conduct as an Officer, and a Man, from the Beginning of the Action of the 1ſt of June, to the end, as far as you had Opportunities of obſerving it?—A. I obſerved Captain Molloy frequently during the Action of the firſt of June; he gave his Orders with the greateſt Coolneſs and Preciſion; and it appeared to me, that he did his utmoſt to drive the two Van Ships out of the Line, and to ſerve his King and Country.

The Court aſked,

What Sail had the Van Ship of the Enemy ſet when ſhe engaged the Cæſar, upon the Cæſar's firſt backing her Maintop-ſail?—A. I do not recollect.

Q. Can you take upon yourſelf to deſcribe the Direction in which the two Van Ships went off after the Action?—A. Not farther than I have related.

Q. Can you tell what Sail they had ſet?—A. The three Top-ſails and Fore-ſail when they firſt bore up, and afterwards, they had their Top-gallant-ſails ſet.

Q. Did you ſee the Bellerophon yourſelf, after you brought to, to engage?

engage?—A. Some Time afterwards I obſerved her a little upon our Lee Quarter.

Q. Was that before the Accident happened to the Rudder?—A. Yes.

Q. Who was quartered on the Poop to obſerve Signals?—A. I believe the Captain's Clerk.

Q. When you were in the Gun Room, did it occur to you any Thing about the relieving Tackles, when you found the Rudder was not choaked?—A. No.

Q. When you found the Van Ship bear up, how did the Bellerphon bear then?—A. I did not ſee her then.

Q. Did you ſuppoſe at that Moment that the Fire of the ſecond Ship was totally directed at the Cæſar?—A. Yes, I did.

Q. Did you ſee the Leviathan or any other Ship of our Van at that Time?—A. No, I did not.

Q. Did you ſee the third Ship of the Enemy's Van before you fired at the ſecond Ship?—A. No, I did not.

Q. When you returned to your Quarters after the Tiller Ropes were clear, and the Helm a-port, did you then ſee the Bellerophon?—A. Yes, right a-ſtern, I ſaw her Maſt, which I ſuppoſed to be the Bellerophon.

Q. Was ſhe engaged at this Time?—A. I don't know.

Q. Was the Cæſar firing at this Time?—A. Yes, ſhe was.

Sir Roger Curtis aſked,

Q. You have ſtated, that the Cæſar brought to, to engage, nearly right a-head of the Bellerophon, did you ſee the Bellerophon at the Time of your bringing to?—A. Not at that Minute, but ſhe was very little to leeward when ſhe brought to.

Q. When who brought to?—A. When the Bellerophon brought to.

Q. The Queſtion was the Situation of the Bellerophon when the Cæſar brought to?—A. I loſt Sight of her as we were bringing up to engage.

Q. You have ſaid, that the Cæſar brought to, to engage, at the Diſtance of two Cables and a half, to the beſt of your Judgment, from her Opponent, now, ſuppoſing the Diſtance to have been two Cables Lengths and a half, as you imagine, do you think that the propereſt Diſtance for engaging, in order to obtain a ſpeedy and deciſive Advantage over an Enemy?—A. That I will not take upon myſelf to ſay, but leave it to the Judgment of the Court, whether it was the propereſt or not.

Q. You have ſaid, that you imagine that the Cæſar choſe a proper Situation for commencing the Action, becauſe you imagined her nearly a-head of the Bellerophon; ſuppoſe the Bellerophon, had taken a very improper Station for going into Action, is it any Juſtification of another Ship doing the ſame?—A. No, but I conſidered it as a good Diſtance.

Q. You have deſcribed the Cæſar as having been ſubject to the Fire of the 1ſt and 2nd Ships of the Enemy, if the Cæſar had been abreaſt of her Opponent, and within half a Cable's Length, inſtead of

two Cables and a half, would ſhe then have been as liable to receive Annoyance from the ſecond Ship of the Enemy, as ſhe was in the Situation you have deſcribed here?—A. No, I think not.

Q. Did the Cæſar drop a-ſtern, during the Time that the Tiller could not be moved?—A. Yes, ſhe did.

Q. You have ſtated that the Foretop-maſt Stay-ſail, and the Main-top-maſt Stay-ſail, were, upon the Rudder being cleared, ſet to recover the Diſtance you had loſt, do you know why the Fore-ſail was not ſet alſo?—A. No, but we were in a very ſhort Time down upon the Van Ship, and engaged her cloſe.

Q. You have mentioned the Signal for cloſing the Admiral having been made on board the Royal Sovereign, did you ſee that Signal flying yourſelf?—A. Yes, I did for ſome Time before we brought to.

Q. Upon what Tack did you firſt bring to, after bearing down upon the Three-decker?—A. I think it was upon the larboard Tack.

Q. How near did you go to the Three-decker before you brought to?—A. About half a Mile.

Q. Did you fire at the Three-decker as you ſteered down towards her?—A. No, we could not get any Guns to bear.

Q. Did you fire at her, after you did bring to?—A. Yes, we did.

Q. In ſpeaking of the two Van Ships of the Enemy that bore up, you have ſaid that you ſaw them ſteering away with the Wind upon the ſtarboard Quarter, did you, at any Time after they bore up, ſee them haul more to the ſtarboard Tack?—A. No I did not.

Lieutenant Edward Sterling Dickſon, of the Cæſar, called in again.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. I was, and quartered at the eight after-Guns on the Main Deck.

Q. Do you recollect the Fleet bearing up to engage the Enemy, on that Day?—A. I do.

Q. Was the Cæſar fired at by the Enemy for any Time, before ſhe returned their Fire?—A. She was.

Q. Do you recollect any Application being made to me, for Permiſſion to open our Fire upon the Enemy before we did?—A. I do.

Q. What Anſwers were given?—A. To wait, for the Ship was not placed, and we were ſtill running nearer to them.

Q. Do you remember the Cæſar backing her Maintop-ſail, and commencing the Action?—A. I remember the Cæſar's commencing the Action, but not the backing her Maintop-ſail; I was then under the Half Deck, and could not ſee.

Q. How was Cæſar ſituated at that Time, with reſpect to the Bellerophon?—A. The Bellerophon was nearly in the Cæſar's Wake.

Q. Did you ſee the Bellerophon, and from whence?—A. At my Quarters, I ſaw her through the Ward-room Windows.

Q. How was the Cæſar ſituated with reſpect to the Van Ship of the Enemy?—A. A little abaft her Beam.

Q. To

Q. To the beſt of your Judgment at what Diſtance?—A. From two to two Cables and a half, I ſhould ſuppoſe.

Q. After your Wounds were dreſſed, and you returned to your Quarters, what was the Situation of the Cæſar?—A. At the Time I returned to my Quarters, it was about five Minutes, I believe, before the Action ceaſed; they were then firing, but upon what Ship I do not know; after that firing ceaſed, I recollect going on the ſtarboard Gang-way, to know what was next to be done. Captain Molloy, pointing to a Ship engaging with the Royal Sovereign, deſired I would get the Guns ready for her, as he was going down to the Royal Sovereign's Aſſiſtance; ſome ſhort Time after, the Three-decker appeared to have borne up; and as her Stern became expoſed, I fired three or four Guns out of the Ward-room at her Stern.

The Court aſked,

Q. Was the Cæſar brought to then?—A. She appeared to me to be brought to, a ſhort Time afterwards.

Captain Molloy aſked,

Q. During the Times that you had an Opportunity of obſerving me in the Action, did it appear to you I was doing my Duty as the Captain of the Ship, and what was your real Sentiments of my Conduct?—A. I only ſaw you once during the Action, when there was a very heavy Fire upon the Ship; there did not appear to be the ſmalleſt Embarraſſment; no bobbing at Shots, or any other Symptoms that could lead me to believe there was any Degree of fear about you.

Q. Prior to your being wounded, did it appear to you that the Cæſar received any Fire from the ſecond Ship of the Enemy's Van?—A. Certainly ſhe did.

Q. Was the Bellerophon at any Time before you were carried off the Deck, ſo far advanced upon the Cæſar, as for the Cæſar to have fired into her?—A. I never ſaw her in that Situation while I was upon Deck, to enable her to have fired into her.

Sir Roger Curtis aſked,

Q. Did you come upon Duty to me, on board the Queen Charlotte, in the Afternoon of the Firſt of June?—A. I did.

Q. Can you recollect what paſſed between us?—A. Not perfectly I do not.

Q. Did I ſay to you, I believe the Cæſar had not received much Damage to Day?—A. I think you did, or Words to that Effect.

Q. What was the Anſwer that you made me?—A. "Nothing very extraordinary," I believe.

Q. Did I, upon your making that Anſwer, deſire you to inform Captain Molloy it was the Admiral's Directions to take Charge of a diſmaſted Ship that I pointed out to you, upon the ſtarboard Quarter?—A. I think you did.

Captain Molloy aſked,

Q. Were you ordered back by me to acquaint Sir Roger Curtis that we were ſo diſabled, the Mizen-maſt that Time fiſhing, and

the Rigging ſo much cut, it was impoſſible to take that Ship in Tow for that Evening?—A. You aſked, upon my Return, whether I knew the Situation of the Ship, and then deſired me to go back to Sir Roger Curtis with that Meſſage.

Sir Roger Curtis ſaid, that he remembered it very well.

Q. What did you tell Sir Roger Curtis when he made that Remark to you, about the killed and wounded of the Cæſar? A. I think I ſaid "nothing very extraordinary;" I think I ſaid that we had a good many Men killed and wounded, and that I did not think the external Damages very extraordinary.

Q. Were you acquainted with the Damages the Cæſar had received, when you firſt went on board the Queen Charlotte?—A. Moſt aſſuredly, I was not acquainted with all the Damages, and perhaps not one half of them.

The Court aſked,

Q. Do you recollect what Sail the Van Ship of the Enemy was under, juſt before any firing began?—A. I do not.

Lieutenant Hopper, of the Marines, called in again.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. Yes, upon the Poop.

Q. Do you recollect the Fleet bearing up to engage the Enemy on that Day?—A. Yes.

Q. Was the Cæſar fired at by the Enemy before ſhe returned their Fire, and did ſhe receive any Damage?—A. Yes, ſhe was fired at by two or three Ships; one Shot ſtruck the Mizen-maſt, forced out one Side of it, and wounded a Marine upon the Poop.

Q. Did you hear any Application made to me, for Permiſſion to fire before we did fire?—A. Yes, I recollect one of the Lieutenants coming, and aſking leave to fire; I did not hear what Captain Molloy ſaid, but they did not fire.

Q. Do you remember the Cæſar backing her Maintop ſail, and commencing the Action?—A. Yes, at the ſecond Ship upon our Quarter, and the Van Ship before our Beam.

Q. When the Cæſar backed her Maintop-ſail to begin the Action, how was ſhe ſituated with reſpect to the Bellerophon?—A. I do not recollect ſeeing the Bellerophon at the Time; but I conſidered the Cæſar as brought up, like the reſt of the Van, a-head of the Bellerophon.

The Court aſked,

Q. Did you ſee the Bellerophon begin to fire?—A. Yes.

Q. What Length of Time was between the Bellerophon's beginning to fire, and the Cæſar's beginning to fire?—A. A few Minutes.

Q. What Ship of the Enemy was it that the Bellerophon began to fire upon?—A. I cannot ſpeak poſitively to the Situation of the Bellerophon.

Q. Were the firſt, ſecond, or third Ships firing upon the Bellerophon

phon before you began to fire?—A. Both the ſecond and third I believe.

Q. Did you ſee the Leviathan at that Time?—A. I cannot poſitively ſay, I believe I did.

Q. Was ſhe engaged at that Time?—A. I ſhould ſuppoſe ſhe was.

Captain Molloy aſked,

Q. Do you recollect any Thing of the Tiller's being foul, and what Effect did that appear to have upon my Conduct?—A. I recollect their ſaying it was ſo, the Ship appearing ſtationary, and Captain Molloy appeared to be very unhappy.

Q. Was it not you, or ſomebody near you, that reported to me, about this Time, that the Cæſar's Signal for cloſer Action was flying on board the Bellerophon?—A. I ſaw it reported to Captain Molloy.

Q. Was that Signal immediately anſwered by my Order?—A. It was.

Q. When the Tiller was cleared, what Effect did the Report appear to have on me, and what Orders did I give in conſequence thereof?—A. I do not recollect; the firſt I obſerved of the Tiller's being clear, was the Ship paſſing the Bellerophon: I recollect ſomething about putting the Helm a-port, but I cannot ſpeak poſitively to it.

Q. To what Cauſe did you attribute the Van Ship of the Enemy quitting the Line?—A. The Fire of the Cæſar I ſhould ſuppoſe; ſhe bore up from the Cæſar's Fire, I ſhould ſuppoſe it was the Cæſar's Fire.

Q. Having been in Action before, and having perpetual Opportunities of ſeeing me during the Action of the Firſt of June, I beg you will relate to the Court your Obſervations on my Conduct on that Day?—A. I made no particular Obſervations on his Conduct; he appeared to be cool and collected; he appeared to be very unhappy when the Tiller was choaked, and very much ſo, when I told him that the Mizentop-ſail Braces, and Croſs Jack Braces were ſhot away, and appeared very anxious to get his Ship nearer the Enemy.

Q. As you received a Variety of Orders from me during the Action, and had a great Deal of Converſation with me, in what Manner did I give you thoſe Orders?—A. Cool and collected.

Sir Roger Curtis aſked,

Q. You have ſaid that when the Cæſar backed her Maintop-ſail, and commenced her Fire, that the ſecond Ship of the Enemy was on your Quarter, and the Van Ship before your Beam; did the Cæſar, by bringing to in that Situation, ſubject herſelf to the Fire of both the Ships, and thereby become more liable to receive greater Damages, than if ſhe had been a-breaſt of the Van Ship, her particular Opponent?—A. I ſaid that the Cæſar began firing upon the ſecond Ship, but ſhe ſhot a-head, and came abreaſt of the Van Ship, as ſhe backed her Maintop-ſail.

Q. You have ſaid that the Cæſar brought to a-head of the Bellerophon, and you ſaid at the ſame Time, that you did not ſee the Bellerophon; if you did not ſee the Bellerophon, how do you form your Judgment

Judgment that the Cæſar brought to a-head of her?—A. I recollect the Cæſar was upon the Bellerophon's Larboard-bow, edging into Action; I called to Captain Molloy, as he could not poſſibly ſee the Bellerophon from the Quarter-deck, to tell him that the Bellerophon had hauled up, and begun to fire; we then ſtood on a few Minutes, which induced me to think, from the Diſtance, that ſhe was brought up like the reſt of the Van; and as I do not recollect ſeeing the Bellerophon at the Time, of courſe, I thought her brought up a-head of her.

Q. You have ſaid you ſaw the Signal for cloſer Action out on board the Bellerophon; when did you firſt ſee it?—A. It was ſome Time after the Action commenced, but I can't ſpeak to Time, as I took no Minutes.

Q. Do you remember any Directions being given, to ceaſe, for a Time, the firing on board the Cæſar, ſoon after the Action commenced?—A. Yes, after the Cæſar being engaged about 10 Minutes, perhaps a Quarter of an Hour.

Q. Was it upon this ceaſing of firing, and the Smoke clearing away in conſequence of it, that you firſt ſaw the Signal out on board the Bellerophon?—A. No, it was ſome Time after, that the Signal was out on board the Bellerophon.

Q. Was the Signal for cloſer Action out on board the Bellerophon, before it was known that the Tiller was immoveable?—A. The Signal being out on board the Bellerophon, I ſaw Captain Molloy run under the Poop, and it was ſaid ſomething was the Matter with the Tiller; when I ſaw the Signal flying on board the Bellerophon, Captain Molloy deſired them to hoiſt the anſwering Flag, and I underſtood the Tiller was foul; I did not underſtand the Tiller was foul before I ſaw the Signal.

Q. When the Impediment to the Tiller was removed, you have deſcribed the Cæſar as paſſing the Bellerophon, did ſhe then, while the Obſtruction to the Tiller continued, drop a breaſt of the Bellerophon?—A. While the Rudder was foul, the Sails were ſhivering, we did not drop a-breaſt of the Bellerophon, but were firing very hard at the ſecond Ship; I obſerved the Bellerophon coming up under our ſtarboard Quarter; I called to Captain Molloy, and informed him of it; we filled the Sails in conſequence, and ſtood on.

Q. Was this after the Obſtruction to the Rudder was removed?—A. I believe it was removed immediately after.

Q. What was your Motives for apprizing Captain Molloy that the Bellerophon was coming up, on the Lee-quarter?—A. Becauſe the Tiller being foul, I was afraid the Bellerophon would have ſtretched on ſo far that we ſhould have fired into her.

Q. Were the Sails filled in conſequence of your Repreſentation?—A. They were, but how long they remained ſo, I cannot recollect.

Q. Was the firing on board the Cæſar at any Time ſtopped, from an Apprehenſion that you might ſtrike the Bellerophon?—A. I called to them from the Poop, to caution them, but I do not recollect the firing ceaſing.

Q. As you found it proper to give that neceſſary Caution, did you

you think the Bellerophon in ſuch a Situation that ſhe might have been accidentally fired into from the Cæſar?—A. The Bellerophon was at that Time coming a-head, and all our Sails ſhivering, and of courſe I thought ſhe might have come further a-head.

Three o'Clock the Court adjourned till Ten o'Clock To-morrow Morning.

Wedneſday the Thirteenth of May, at Ten o'Clock, the Court met according to Adjournment,

Lieutenant Hodder, of the Cæſar, called in again.

Captain Molloy aſked,

Q. Did you belong to the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. I did; I was quartered at the Five after Guns on the lower Deck

Q. Do you recollect the Fleet bearing up to engage the Enemy on that Day?—A. I do.

Q. Relate to the Court every Tranſaction that happened to the beſt of your Recollection at this Diſtance of Time, from the Beginning of the Action, until all firing ceaſed.—A. A little before we bore up, Captain Molloy viſited the lower Deck, and gave Directions to the People to be very careful in pointing their Guns, and not firing until they could ſee the Object, as he meant to bring the Ship to cloſe Action with the Enemy, upon which the People cheered him; while we were bearing down on the Enemy, I was employed in directing the Men how to conduct themſelves during the Action.

Q. When the Cæſar brought to, to engage the Enemy, what was her Situation with reſpect to the Van Ship?—A. I do not know her Situation with reſpect to the Van Ship, but found that we were engaged with a Two-deck Ship that lay before our Beam.

Q. At what Diſtance was the Cæſar from that Ship that you ſay we began to engage with?—A. From my Situation on the lower Deck, I cannot well aſcertain the Diſtance, but to the beſt of my Recollection within five or ſix Hundred Yards.

Q. Was your Fire upon the Enemy's Ship ever interrupted by any Britiſh Ship coming between you and the Enemy?—A. It was not.

Q. Did the Cæſar, to the beſt of your Recollection, appear to you to have received the Fire of more than one Ship at a Time of the Enemy?—A. I am certain we had the Fire of two.

Q. For any Length of Time?—A. I cannot ſpeak to Time, it was at different Times during the Action.

Q. Do you recollect any Thing of the Van Ship of the Enemy bearing away?—A. I did not take any particular Notice of the Van Ship, or any other, with reſpect to their Situation in the Line, but can deſcribe the Ships we engaged by the Manner in which they were painted.

Q. Did you ſee any bear away?—A. I did; I ſaw two.

Q. To what Cauſe did you attribute their bearing away?—A. From their being overpowered or overcome in Action.

Q. After thoſe two Ships had bore away, did you make any further Obſervations,

Obſervations, and did the Cæſar fire at any other Ship?—A. Yes, ſhe did, and I pointed and fired the after Guns on the lower Deck during the whole Action; and received Orders, after we had been engaged ſome Time, to ceaſe firing on a Ship that had loſt her Fore-maſt, as her Colours were down; upon this, ſome of the People at my Quarters ſaid, what do you ſay for three Cheers? but I ſtopt them, and told them to load their Guns, and run them out, as they would ſoon be wanted, and then cheer, and do what they pleaſe; at this Time one of the Men told me that one of the Guns at my Quarters was ſplit; this led me to go over the Ship's Side to examine the Gun, and found it was ſplit; I then looked upon our Beam, and found a Two-deck Ship that had loſt her Fore-maſt; juſt at this Time her Fire opened upon us from her lower Deck, and we were ordered to fire again upon her, and gave her a Broadſide, and her Main and Mizen-maſt fell over her Starboard-quarter; I ſaw them fall, and heard the Craſh.

Q. After the Cæſar had fired upon that Ship that had loſt her Maſts, do you recollect any Thing of the Cæſar's going away from that Ship?—A. We left her upon our ſtarboard Side, we paſſed her.

Q. What happened then?—A. I ſaw a Three-decker paſſing to leeward, and pointed the after Guns at her Quarter; but ſome of the Main-deck Guns, or Quarter-deck Guns, were fired, which covered the Port with Smoke, which gave me no Opportunity of firing at her, as ſhe bore up, and was going away with her Yards ſquare as they appeared to me.

Q. Do you recollect, after the firing ceaſed, coming on the Quarter-deck with every Officer of the Ship to me, and what happened on that Occaſion?—A. I recollect going upon the Quarter-deck, and congratulating Captain Molloy on the Victory. I ſaw ſome of the other Officers.

Q. What was your Opinion on the Conduct of the Cæſar on that Day after the Action was over?—A. I conceived ſhe had taken a very heavy Part of the Engagement.

Q. Do you recollect any Circumſtance of the Tiller?—A. I attended the clearing of it.

Q. As far as came within your Obſervation, being ſtationed on the lower Gun Deck during the whole of the Action, did it appear to you that I did my Duty to the utmoſt of my Power?—A. It moſt certainly did.

Q. Have you any Doubt upon your Mind that the Ship which you ſaw bear away, was driven out of the Line by the Cæſar's Fire?—A. I cannot anſwer that Queſtion; the Ship that we were engaged with, I ſuppoſed they had been beaten.

Lieutenant Ekdon, of the Cæſar, called in again.

Captain Molloy aſked,

Q. Were you Lieutenant of the Cæſar in the Action of the First of June, and where were you quartered?—A. I was; I was quartered at the five foremoſt Guns forward, on the lower Deck.

Q. Do you recollect the Cæſar's bearing up to engage the Enemy on that Day?—A. Yes, I do.

Q. When

Q. When the Cæſar brought to, to engage, do you recollect her Situation with reſpect to the Ship ſhe opened her Fire upon?—A. We opened our Fire on the ſecond Ship of the Enemy's Van, and when the Cæſar appeared to me to become ſtationary, we were on the Van Ship's Quarter.

Q. At what Diſtance did it appear to you the Cæſar brought up to engage the Enemy, when ſo ſtationary?—A. I ſhould ſuppoſe about three Cables Lengths.

Q. Was the Fire of the Cæſar ever interrupted by any Ship of the Britiſh Line getting between her and the Enemy?—A. I never ſaw any Ship of the Britiſh Line from my Quarters.

Q. Did the Cæſar during the Action receive the Fire of more than one Ship of the Enemy?—A. Yes, in paſſing the ſecond Ship of the Enemy's Van, we received her Fire.

Q. Did you ſee the Van Ship of the Enemy bear away?—A. No, I did not.

Q. Did you ſee the ſecond Ship of the Enemy bear away?—A. I ſaw her ſhortly after ſhe bore up.

Q. Was you keeping up a very heavy Fire then from your Quarters?—A. Yes, we never ceaſed firing from the Time we firſt began to engage, until after the two Van Ships bore up.

Q. To what Cauſe did you attribute at the Time the bearing up of the Van Ship?—A. To the very heavy Fire that was kept on her by the Cæſar.

Q. After thoſe Ships had bore up, did you ſee any other Ship, and in what Situation was ſhe with reſpect to the Cæſar?—A. After the two Van Ships bore up, I received Orders from Captain Molloy not to fire on the third Ship, as ſhe had ſtruck; I then looked out of the Bow port, and perceived the third Ship before our Beam, with the Colours gone, and Fore-maſt down; ſhortly after this, we received Orders to open our Fire again, for ſhe had hoiſted her Colours; after firing about two Broadſides, I perceived her Main and Mizen-maſts were gone.

Q. How near was the Cæſar to that Ship at the Time you have been deſcribing?—A. I ſhould ſuppoſe a Cable's Length.

Q. After paſſing that Ship, do you recollect any Thing that happened?—A. I was ſent for by Captain Molloy on the Quarter Deck, to know what Damages I had ſuſtained at my Quarters: I told him that the Trucks of one of the Guns had been knocked off, and I had loſt a few Men; he deſired me to go below, and have the Guns ready for that Three-deck Ship, pointing to her: I went below, and had the Guns ready, when I was told the Signal had been made to cloſe round the Admiral.

Q. During the Time you had an Opportunity of ſeeing me in the Action, and particularly when I ſent for you, and gave you Orders to get your Guns ready for that Three-decker to leeward, did it appear to you that I was doing my Duty in the Manner becoming me?—A. Yes, it did, to the utmoſt of his Power.

Lieutenant Bennet, of the Cæſar, called in again.

Captain Molloy aſked,

Q. Was you Lieutenant of the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. I was, and was quartered on the Lower-deck, and commanded there.

Q. Do you recollect the Cæſar's bearing up to engage the Enemy that Day?—A. I do.

Q. When the Cæſar brought to, to engage, how was ſhe ſituated, with reſpect to the Van Ship of the Enemy?—A. I was looking out of the Port, ſhe was between the Van and ſecond Ship, as we brought to, ſhe was rather upon the Bow of the ſecond Ship; but between both, by which I mean that we were nearer the ſecond Ship than the firſt, when we did bring to.

Q. How long did the Cæſar continue in that Situation?—A. I cannot exactly tell, from the Smoke occaſioned by the very heavy Fire we kept up and received.

Q. Did the Cæſar get nearer to the Van Ship than to the Second, after that?—A. I don't know how near we were to the Van Ship at all, after we firſt fired, for the Smoke.

Q. At What Diſtance, to the beſt of your Judgment, did the Cæſar bring up to engage the Enemy?—A. I cannot exactly tell, but ſhould ſuppoſe about five hundred or ſix hundred Yards.

Q. Was the Fire of the Cæſar's Guns under your Command, at any Time interrupted by any Ship of the Britiſh Line getting between the Cæſar and the Enemy?—A. Never.

Q. Did you obſerve the Enemy's Van Ship or Ships bearing away? A. I ſaw a Red-ſided Ship bearing away, but whether it was the Van or ſecond Ship I can't tell.

Q. To what Cauſe did you attribute that Ship bearing away?—A. I was always of Opinion that we had beat her out from her Station.

Q. After that Ship had bore away, did you make any further Obſervations on the Proceedings of the Cæſar?—A. We were immediately engaged by another Ship, but the Smoke became ſo thick that I ordered our People to avaſt Firing, and ſent to the Captain to know in what Direction our Guns were to be pointed; after an Interval of two or three Minutes, I heard the Captain call out from the Fore-part of the Quarter Deck, ſhe is right a-breaſt of us, we are cloſe aboard of her, fire away as faſt as you can: we did, and in a few Minutes he called out to ceaſe firing, as the Enemy had ſtruck, and Engliſhmen ſhould always ſpare their conquered Enemies; the Smoke clearing away, I ſaw a Ship rather before our Beam, with her Fore-maſt gone, and Colours down; our People were cheering in rather a joyous and tumultuous Manner, and ſhe hoiſted her Colours again, and gave us a whole Broadſide: we turned to immediately, and after the ſecond or third Fire, I heard a Craſh, and one of the Men called out her Maſts are gone: I looked out of the Port, ſaw her Main-maſt gone, and her Mizen-maſt in the Act of falling, and ſhe laid over as if ſhe was ſinking, and we then ceaſed firing at her; ſhe was a Yellow-ſided Ship.

Q. After

Q. After the Cæſar had left that Ship, do you recollect any Thing further that happened?—A. The Cæſar had bore up, and the Captain ſent a Midſhipman to me, to tell me to prepare for a Three-decker to leeward; I deſired to know which Side he meant to engage her: his Anſwer was, I don't know yet, but that he meant to lay her a-board, and deſired that I would be ready for it: that Meſſage being repeated, I ran aft for my Hanger, and got ſome Muſquets ready, that we might have a chance of picking them out from the Ports; but ſoon after, I obſerved they were bringing the Ship to the Wind again; at which expreſſing my Surpriſe, I was told that our Signal had been made to cloſe with the Royal Sovereign: I did not ſee the Signal myſelf, the Three-decker was then going before the Wind, and a few of the Guns, two or three, were fired at her; as we were in the Act of hauling up, I am ſure there were ſome from the Main Deck, for the Smoke that they made prevented us from pointing any more at her.

The Court aſked,

Q. Did you fire at her going down?—A. No, I did not ſee her till we were in the Act of coming to the Wind again.

Captain Molloy aſked,

Q. During the Opportunities you had of ſeeing me in the Action of the Firſt of June, what were your Obſervations on my Conduct?—A. I ſaw very little of Captain Molloy on that Day, but from the Orders which I received, and when I did ſee him, he appeared to be perfectly collected, and ſeemed deſirous to annoy the Enemy as much as poſſible.

Sir Roger Curtis aſked,

Q. You have ſtated that the Cæſar brought to, to engage, between the two Van Ships of the Enemy, and rather nearer to the ſecond than the firſt; did the Cæſar, by bringing to in that Situation, and being thereby ſubject to the Fire of both thoſe Ships, ſubject herſelf to receive greater Damages than if ſhe had been along-ſide the Van Ship of the Enemy, her particular Opponent?—A. Certainly, ſhe muſt have received more Damage from two Ships than from one, but I never conſidered the Van Ship to be our particular Opponent; as I underſtood the Signal had been made for the Van to cloſe upon the Centre, conſequently the Ship that we brought up a-breaſt of, was our Opponent.

Q. Was the Cæſar's Fire divided between thoſe two Ships?—A. I cannot anſwer that Queſtion, my own particular Quarters were directed to the Bow of the ſecond Ship, the five centre-Guns.

Q. Were theſe five centre-Guns at any one Time, to your Knowledge, fired at the Van Ship?—A. I do not know, they both being Red-ſided Ships, the one may be miſtaken for the other.

Q. Do you know that any Guns were fired at the Van Ship?—A. I do not.

Q. You have ſtated, that in your Apprehenſion the Van Ships of the Enemy bore up in Conſequence of the heavy Fire from the Cæſar; why do you imagine the Van Ship bore up on that Account, when you

do not know that a ſingle Lower-decker was fired at her?—A. I did not ſay any Thing of the Van Ship, for after the firing began I never ſaw her.

Q. Do you know then, at any Time during the Action, that the Cæſar was cloſely engaged with the Van Ship?—A. I do not.

Q. You have ſtated, that when Directions were given to fire at the Ship that you engaged, after the two Van Ships bore away, you heard Captain Molloy ſay, we are cloſe a-board of her, and that you fired when you became a-breaſt of her, and that when the Smoke cleared away you ſaw her before your Beam; be ſo good as to explain that?—A. I never ſaw her till Captain Molloy called out avaſt firing, as ſhe had ſtruck; I was directed in my Fire by the flaſhing of her Guns, and the Direction of the Shot whizzing about us, the Smoke being ſo very thick.

The Court aſked,

Q. How did you underſtand the Signal was made for the Van to cloſe upon the Centre?—A. Becauſe when we firſt bore up, our Ship was ſtemming for the larboard Quarter of the Van Ship, and while I was looking at her, the Courſe of the Ship was ſo much altered as to bring the Wind upon the ſtarboard Quarter of the Ship: I wondered what was the Cauſe, and upon Enquiry of ſome of the Officers upon Deck, was told that that Signal had been made.

Sir Roger Curtis aſked,

Q. Do you conceive that the Signal for the Van to cloſe with the Centre, was in order to compact the Britiſh Line cloſe together?—A. Upon my Word I can't tell.

Q. Do you, as an Officer, imagine that the Signal for the Van to cloſe to the Centre, annulled the Signal for each Ship to ſteer down independently of each other, and engage their reſpective Opponents in the Enemy's Line?—A. I don't know.

Joſeph Barnaby, a Seaman belonging to the Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Was you in the Cæſar in the Action of the Firſt of June?—A. I was.

Q. Where was you quartered?—A. At the fifteenth Gun on the Main Deck.

Q. When the Cæſar brought to, to engage, and opened her Fire upon the Enemy, did you ſee the Bellerophon?—A. Yes.

Q. From what Part of the Ship did you ſee her?—A. Out of the ſtarboard Stern-window of the Ward-room.

Q. Did you point your own Gun?—A. Yes.

Q. Did the Bellerophon prevent your firing at the Enemy?—A. No.

Sir Roger Curtis aſked,

Q. When you ſaw the Bellerophon out of the Stern-window, was ſhe

the upon either Quarter of the Cæſar?—A. No, about the Breadth of her to leeward of our Wake.

Q. During the Action were any Orders given to ſtop firing the after Guns, for fear you ſhould fire into the Bellerophon?—A. None to my Knowledge.

Jonathan Dalton, late Signal Quarter Maſter of the Cæſar, now a Midſhipman belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. On the Poop.

Q. For what Purpoſe?—A. To look for Signals, and to anſwer them.

Q. Do you recollect the Fleet bearing up to engage the Enemy?—A. Yes.

Q. Was the Cæſar fired at by any of the Enemy before ſhe returned their Fire?—A. She was.

Q. Was the Cæſar's Signal made to engage cloſer ſome Time after we had been in Action?—A. Yes, it was.

Q. Was it immediately anſwered by my Orders?—A. It was.

Q. At the Time of that Signal being made, do you recollect any Thing being the Matter of the Tiller?—A. Yes.

Q. After the Tiller was cleared, and the Cæſar had bore up, do you recollect any Signal whatever being addreſſed to the Cæſar from the Bellerophon, or any other Ship of the Fleet?—A. I do not.

Q. Do you recollect when the Van Ships of the Enemy bore away?—A. Yes, I do.

Q. Did you ſee any Signal made at that Time from the Bellerophon, or any other Ship, for the Cæſar to chaſe?—A. I did not.

The Court aſked,

Q. Did you frequently look towards the Bellerophon for Signals?—A. I did.

Q. Did you ever hear of any ſuch Signal having been made.—A. I did not.

Captain Molloy aſked,

Q. What Directions had you from me before you went into Action, and why did I particularly ſtation you where I did?—A. My Directions were from Captain Molloy to keep a good look out for Signals, and to report to him every Signal that was made, and likewiſe to look out upon the Ship aſtern.

Q. Where did you particularly ſtand during the whole of the Action?—A. Commonly upon one of the Colour Cheſts, forward upon the Break of the Poop.

Q. I aſk you, as a Seaman, if the Signal had been ſeen, and reported to me, could the Cæſar have chaſed in the Situation the Cæſar then was?—A. No.

Q. Why do you think ſhe could not have chaſed?—A. The Top-ſail-tie was ſhot away; her Mizen-maſt was dangerouſly wounded; her

her Mizen-yard was wounded; her Mizen-ſtay was ſhot away, and her Mizen ſtay-ſail was lying down upon Deck.

Q. Do you recollect any Damages about the Main-maſt, and Main-rigging?—A. Several ſhot in her Main-maſt, and ſome Main-ſhrouds ſhot away, but I can't ſay how many.

Q. Do you recollect the Cæſar bearing down towards a Three-deck Ship, with which the Royal Sovereign was engaged?—A. Yes.

Q. Do you recollect at, or about, that Time, any Signals flying on board the Royal Sovereign?—A. Yes, No. 101, to cloſe round the Admiral.

Q. Did you ſee any Ship's Pendants in particular flying on board the Royal Sovereign at, or about, that Time?—A. I did not.

Q. As you had an Opportunity, from your Situation ſtanding on the Colour Cheſt, of ſeeing me, from the beginning of the Action to the end of it, did it appear to you that I was doing my Duty as an Officer and a Man?—A. It appeared to me that you did your Duty like an Officer, and gave your Orders in a very cool Manner, and I obſerved you go on the Gangway ſeveral Times, as I thought, to cheer the Men on the Main deck.

The Court aſked,

Q. As you ſtood upon the Colour Cheſt, and being deſired to look at the Ship a-ſtern, during the Action, at any one Time, did the Bellerophon ſhoot up towards the Cæſar before the Van Ship bore away?—A. She never was within twice her Length of the Cæſar, nearly in the Cæſar's Wake.

Q. Was that her Situation all that Part of the Action?—A. No, the Bellerophon, when the Van ſhip bore away, was on the Cæſar's Larboard Quarter, about half a Cable's Length to windward of the Cæſar.

Q. Do you recollect the Poſition of the Bellerophon when you began to ſteer, after the Obſtruction of the Tiller was removed, at the Diſtance ſhe was then at?—A. The Bellerophon, when the Cæſar's Wheel was cleared, was about twice her Length nigher the Enemy than the Cæſar was; ſhe was upon our ſtarboard Quarter, and about half a Cable's Length a-ſtern of the Cæſar.

Q. Did you ſee the Bellerophon during moſt of the Action?—A. Yes.

Q. What Ship did the Bellerophon commence her Fire upon in the Enemy's Van?—A. I obſerved her engaging the third Ship; I do not know which ſhe began with.

Q. Did you ſuppoſe the ſecond Ship of the French Van fired at you, or the Bellerophon?—A. At the Cæſar.

Q. Did you ſee the Leviathan before you began to fire, and what Ship of the French Van did ſhe begin to engage with?—A. I did not obſerve her.

Q. When you ſaw the Bellerophon on your weather Quarter, was ſhe in Action?—A. She was firing, very ſlowly, and I think her Maintop maſt was gone.

Q. Was the Van Ships of the Enemy in the Act of bearing up at that Time?—A. The Van Ship had bore up, and the Cæſar was cloſe engaged with the ſecond Ship.

Captain

Captain Molloy aſked,

Q. Did you ſee the Van Ship of the Enemy bear away?—A. I did not ſee her at the Time ſhe bore up, but I ſaw her immediately after, when ſhe was ſquaring her Head-yards.

Sir Roger Curtis aſked,

Q. Did you ſee the Signal for cloſer Action out on board the Bellephon?—A. Yes, I did.

Q. Did the Cæſar ceaſe firing ſome Time after the Action began?—A. She did.

Q. Did you ſee the Signal on board the Bellerophon, upon the Smoke clearing away?—A. I ſaw it before, and anſwered it.

Q. Was it known that the Tiller of the Cæſar could not be moved before the firing ceaſed?—A. Yes, I think it was.

Q. Do you know of any Accident having happened to the Tiller of the Cæſar, when you firſt ſaw that Signal?—A. As I was hoiſting the anſwering Jack, Captain Molloy ordered the Helm to be put hard to port; immediately I heard the Quarter-Maſter at the Wheel ſay, he could not move the Wheel.

Q. You have ſaid that the Cæſar could not chaſe the Van Ship when ſhe bore up, on Account of Damages; did you at that Time know of all theſe Damages that you have deſcribed, or were you informed of them afterwards?—A. I ſee them about that Time.

Q. You have mentioned the Signal, 101, as being the Signal to cloſe with the Admiral; was the Signal, 101, made at any Time during the Firſt of June?—A. Yes, it was.

Q. You have ſtated that you ſaw the Bellerophon on your weather Quarter, about the Time the Van Ship bore up with one of her Top-maſts gone, and that ſhe was then firing; at what Ship was ſhe firing?—A. At the Third.

Q. Did you ſee the Leviathan at that Time?—A. I did not obſerve her.

Q. Did you ſee the ſecond Ship of the Enemy fire at the Bellerophon at all during the Action?—A. I did not.

The Court aſked,

Q. Did you ſee the Signal made for the Van to cloſe upon the Centre, and at what Time?—A. I do not recollect ſeeing of it.

Q. Did you ſee the Bellerophon when ſhe began to engage?—A. I obſerved her engaging the third Ship.

Q. Was that before you began your Fire?—A. Yes.

John Harris, a Quarter-Maſter, belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. Yes, I was; I was Captain of the 14th Gun on the Main-deck.

Q. When the Cæſar brought to, to engage the Enemy, did you ſee the

the Bellerophon, and where from?—A. I did ſee her through the ſtarboard Wardrobe Window, from the Arſe of my own Gun.

Q. Did you point your own Gun frequently?—A. I did, I believe, every Time.

Q. Was you ever prevented firing your Gun at the Enemy, by the Bellerophon getting between you and the Enemy?—A. I was not in the leaſt.

Mr. Charles Peterſon, a Midſhipman, belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. I was, and quartered on the Quarter-deck as his Aid-de-Camp.

Q. Do you remember the Cæſar's being hailed by the Queen Charlotte upon the 31ſt of May, and the Enemy being in Sight?—A. I do.

Q. Did you receive any Orders from me at that Time, to carry to the Officers on the ſeveral Decks, and what were they?—A. Yes, to deſire the Officers would level their Guns for that Ship, pointing to the Queen Charlotte, for we ſhould go as cloſe to the Enemy as we were to the Queen Charlotte.

Q. Do you recollect the Cæſar's bearing down to engage the Enemy on the Firſt of June?—A. Yes, I do.

Q. Do you recollect any Thing of the Tiller's being fixed?—A. I do.

Q. Do you recollect the Cæſar's Signal being reported to me for cloſer Action?—A. Yes.

Q. Was this at the Time the Tiller was fixed, or was it before?—A. At the Time the Tiller was fixed.

Q. Did it appear to you at any Time during the Action, that the Cæſar was prevented firing on the Enemy by any Ship of the Britiſh Line getting between her and the Enemy?—A. No.

Q. Do you recollect, after the Wheel was cleared, the Cæſar bearing down cloſer to engage the Enemy, and did you receive any Orders from me to carry to the Officers on the Gun-decks, at that Time?—A. Yes, to deſire they would fire away as faſt as they could, for it was impoſſible to miſs, as we were ſo cloſe to the Enemy.

Q. After the Van Ships had bore away, and the Cæſar paſſed the diſmaſted Ship, do you recollect to have heard any Converſation paſs between me and the Firſt Lieutenant, when running down to the French Three-decker?—A. I ſaw you in Converſation together, but did not hear what he ſaid; but heard you reply, that we had done *nothing* while there was any Thing left for us to do.

Sir Roger Curtis aſked,

Q. You have ſaid that you heard it reported from the Poop to Captain Molloy, when the Tiller was fixed, that the Signal for cloſer Action was made; do you know that that Signal was not obſerved before upon the Poop?—A. No, I do not.

Q. You

Q. You have ſtated that the Firing on board the Cæſar was not ſtopped from an Apprehenſion of firing into any Britiſh Ship; did you hear the Marine Officer, from the Poop, apprize Captain Molloy that the Bellerophon was approaching the Cæſar?—A. No.

Mr. Henry Burke, late a Mate belonging to the Cæſar, now in the Galatea, called in, and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. Yes, quartered at the Fore-part of the Main-deck.

Q. Did you point any of the Guns at your Quarters at the Enemy, and were you prevented at any Time firing at them, by any Ship of the Britiſh Line coming between you and the Enemy?—A. Yes, I did, many, and was never prevented.

Q. Do you recollect ſeeing the Van Ship of the Enemy bear away?—A. I recollect the Ship that we were firing at at the Time bearing away, but I do not know whether it was the Van, or not.

Q. To what Cauſe did you attribute that Ship ſo bearing away?—A. In my Opinion, to the Cæſar's very heavy Fire at the Time.

Q. After the Action was over, what Opinion had you formed of the general Conduct of the Cæſar on that Day?—A. That the Cæſar had done her Duty; I thought that no Ship had behaved better.

Q. Was it poſſible, in your Opinion, that the Officers and People in general could be more elated than thoſe of the Cæſar were upon that Action ceaſing, upon what they had done in that Action?—A. No.

George Dean, late Quarter-Maſter, and now a Midſhipman, belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. Yes, I was; I was quartered at the fifth Gun a-breaſt of the Wheel upon the Quarter-deck.

Q. Do you recollect the Fleet bearing up to engage the Enemy on that Day?—A. Yes, very well.

Q. Was the Cæſar fired at by the Enemy for any Time before ſhe returned their Fire?—A. Yes, ſhe was, and had her Mizen-maſt wounded.

Q. Do you remember the Cæſar backing her Maintop-ſail, and beginning the Action?—A. Yes, very well.

Q. How was ſhe ſituated with reſpect to the Enemy's Ships at that Time?—A. She was a-breaſt of the ſecond Ship of the Enemy's Van.

Q. Did ſhe continue there?—A. No, ſhe ſhot a-head between the firſt and ſecond Ship of the Van.

Q. How far did ſhe fore-reach upon the Van Ship?—A. The fartheſt that ever we was, was about her Cheſs-tree.

Q. Did you point your own Gun at any Time during the Action, and fire it?—A. Yes.

Q. Did you at any Time, when pointing your Gun at the Enemy, ſee the Bellerophon between you and the Enemy, ſo as to prevent your firing?—A. No, never.

Q. Do you recollect any Thing about an Obſtruction to the Rudder?—A. Yes, I remember it very well.

Q. Did you hear any Body report to me, that the Signal for cloſer Action was flying on board the Bellerophon?—A. Yes, I did.

Q. Was this at the Time the Tiller was fixed?—A. It was.

Q. Did you ſee the Bellerophon at any Time during the Action to leeward of the Cæſar?—A. No, I did not.

Q. Did you hear the Maſter, or any Perſon report to me that the Tiller was cleared?—A. Yes, I heard the Maſter.

Q. What Orders did you hear me give the Maſter upon that Report being made?—A. I heard Captain Molloy deſire the Maſter to have the Helm clapped hard to-port, and to fill the Head-ſails, for that damned Signal of mine ſhall not be made any more, and to clap me cloſe a long-ſide the Van Ship.

Q. Were the Sails filled, and did the Cæſar go down to the Van Ship?—A. Yes, the Report was, that the Jib-ſheet and Halyards were gone, and we hoiſted the Foretop-maſt Stay-ſail.

Q. Did you ſee the Van Ship of the Enemy bear away?—A. Yes.

Q. What did you think made her bear away?—A. I think the heavy Fire of the Cæſar, to the beſt of my Knowledge.

Mr. George Hailes, a Clerk, belonging to the Cæſar, called in, and ſworn.

Captain Molloy aſked,

Q. Were you in the Cæſar in the Action of the Firſt of June, and where were you quartered?—A. Yes, I was; I was ſtationed on the Poop to aſſiſt the Minuting-Signals.

Q. Before the Cæſar went into Action, was the Cæſar's Signal made to make more Sail?—A. Yes, it was.

Q. Was it made alone?—A. There were more Pendants that we could not diſtinguiſh.

Q. Do you remember the Wheel being fixed?—A. Yes, I do.

Q. Do you remember the Cæſar's Signal being made on board the Bellerophon for cloſer Action?—A. I do.

Q. Was the Cæſar's Tiller fixed at that Time?—A. It was fixed at the Time the Signal was reported.

Q. Do you recollect any Thing of the Van Ship of the Enemy bearing away?—A. I do.

Q. Did you ſee, at the Time of their bearing away, any Signal flying on board the Bellerophon for the Cæſar to chaſe?—A. No, never.

Q. Though you did not yourſelf ſee ſuch Signal, did you ever hear of its being made, or reported to me?—A. If it had been reported from any Perſon on the Poop I muſt have heard it, I did not hear of it.

Q. After the Tiller was cleared, did you hear or ſee any Signal whatever

whatever made to the Cæſar, by any Ship of the Fleet, from that Time until all firing ceaſed?—A. There was a Signal reported by the Clerk to Captain Molloy, that was flying on board the Royal Sovereign, I underſtood it was for the Ships to cloſe round him.

Sir Roger Curtis aſked,

Q. You have ſtated that the Tiller was fixed when the Signal for cloſer Action was reported to Captain Molloy; was that Signal obſerved upon the Poop before you knew the Tiller was fixed?—A. Yes, when it was reported, I underſtood the Tiller could not be moved one Way or the other.

Three o'Clock, the Court adjourned till Ten o'Clock to-morrow Morning.

Thurſday, Fourteenth, Ten o'Clock, A. M. the Court met according to Adjournment.

Mr. John Marſhall, a Quarter-man in Portſmouth Dock-yard, called in and ſworn.

Captain Molloy aſked,

Q. Did you attend the Repairs of the Cæſar, on her Return to Spithead, after the Actions of the Twenty-ninth of May, and Firſt of June?—A. Yes, I did.

Q. Relate to the Court the Damages ſhe ſuſtained, and the Repairs ſhe had in Conſequence of them.—A. She received ſix Shot under the Water, one between Wind and Water, the Shot under Water cut off the Orlop Spar, Catting, and lower Streak of the lower Deck Clamp in four different Places; the Shot that came through above Water carried away two Port-ſills, two Port Timbers at the Sides of the Ports, drove in ſeveral Rings and Eye-bolts from the Sides of the Ports, carried away the outſide and inſide Planks between the Ports, carried away Part of three or four Knees, cut off two Streaks of the upper Deck, and the Combings of the after Hatchway, cut off the round Houſe Clamp in the Captain's Cabin, carried away the Main-brace Block, Timber, Head, and Rail above it, carried away Part of one of the Taffrail Knees, cut two Streaks of the Round-houſe, carried away Part of the Back of the Rudder; in taking out Shots, we cut and fitted in fifty-two Pieces, the greateſt Part of it was on the ſtarboard Side, the Main-maſt had four Shots; we brought on five Fiſhes, upwards of fifty Feet long, the Mizen-maſt was better than half, almoſt two-thirds ſhot off, the larboard Foreyard-arm was ſhot off, or thereabouts, to the beſt of my Recollection about ſeven or eight Feet within the Blocks; the Gun that burſted cut off three Streaks from the upper Deck, and ſprung the Knee underneath; cut off ſeven Streaks from the Quarter-deck over the Gun, and ſprung the foremoſt Beam of the Round-houſe very bad.

Lieutenant Dickenſon called again.

Captain Molloy aſked,

Q. Upon your enquiring, by my Directions, into the Number of

Men that were killed and wounded by the unfortunate Accident of the burſting the thirteenth Gun on the Main-deck, how many Men did you report to me were killed and wounded?—A. Two killed, and I believe five or ſix wounded at moſt.

Jeremiah Croning, a Seaman belonging to the Cæſar, called in and ſworn.

Captain Molloy aſked,

Q. Were you on board the Cæſar in the Action of the Firſt of June laſt, and where were you quartered?—A. At the third Gun on the lower Deck from forwards.

Q. Were you Captain of the Gun, and did you point your Gun yourſelf?—A. Yes.

Q. Were you ever prevented firing your Gun at the Enemy, by any Ship of the Britiſh Line getting between you and the Enemy?—A. No.

Q. Were you ever in Action?—A. Yes, different Times.

Q. What Opinion had you and the reſt of the Ship's Company in general formed of me, your Captain, after the Action?—A. The general Opinion of the Ship's Company, as far as I could judge, was, that we could never wiſh to be commanded by a more accompliſhed Gentleman as a Captain of a Man of War.

Captain Molloy ſaid, As all the Evidences I have yet to call, can only go to ſtrengthen what has already been given in Evidence, and the Court ſeem to think that unneceſſary; I will decline giving the Court any further Trouble with Evidence from the Cæſar.

Captain Nicholls called in again.

Captain Molloy aſked,

Q. At thirty-five Minutes paſt Eight in the Morning of the Firſt of June, was the Cæſar's Pendant thrown out to ſteer for, and independently engage the Ship oppoſed to her in the Enemy's Line?—A. It moſt certainly was made when the preparative Signal was hauled down, as the Purport of the Signal was not immediately complied with, but whether it was made preciſely about thirty-five Minutes paſt Eight o'Clock, I can't pretend to ſay, from other People's Minutes.

Q. Was my Pendant thrown out alone?—A. Certainly there was another Ship's Pendant thrown out.

Q. A little Time after, was the Cæſar's Pendant thrown out to take her Station, and was it thrown out alone?—A. It was made, and another Ship's Pendant thrown out at the ſame Time.

Q. At forty-two Minutes after Eight, or about that Time, was the Cæſar's Signal made to make more Sail, when going down to the Attack of the Enemy?—A. It was, and other Ship's Signals made at the ſame Time.

Q. A little after Nine was the Signal made for the Van to make more Sail?—A. The Signal was made for the Van to make more Sail at Half paſt Nine, or thereabouts.

Q. Was the Cæſar's Signal made for cloſer Action with other Ship's Pendants?—A. It was.

Q. Was

Q. Was the Cæſar's Pendant thrown out by the Royal Sovereign at any Time, from the Beginning of the Action, until the Cloſe of it, either for cloſer Action, or making Sail ſingly or alone?—A. I believe not.

Sir Roger Curtis.

Q. You have ſaid the Cæſar's Signal was made to make more Sail with other Ships at the ſame Time; did theſe other Ships make more Sail in Obedience to that Signal, and go into their Station?—A. I apprehended they did make more Sail, but I cannot ſpeak poſitively to what may be termed going into their preciſe Station.

Q. Did the Cæſar make more Sail, and go into her Station?—A. I have obſerved before that I was convinced in my Mind that ſhe did make more Sail, as it was the Admiral's Wiſh the Signal ſhould not be hauled in until it had been in ſome Manner complied with, but what Sail ſhe did make I cannot pretend to ſay.

Q. Did ſhe go into her Station in Obedience to that Signal?—A. I have before ſaid that I can't ſay poſitively whether ſhe made ſo much Sail as to get into her Station or not, as it was made ſome Time before the Action commenced.

The Report of Rear Admiral Sir Thomas Paſley, was read by the Judge Advocate, by the Deſire of Captain Molloy, as far as related to the Cæſar.

Captain Molloy then obſerved, that although it appeared by the Evidence of Captain Nicholls, that other Ship's Pendants were thrown out on every Occaſion where the Cæſar's was, on board the Royal Sovereign, yet theſe Circumſtances were cautiouſly ſuppreſſed by Rear Admiral Paſley in his Report to Lord Howe, though it gave him ſuch Pain to mention the Cæſar.

Sir Roger Curtis ſaid, that in Anſwer to Captain Molloy's Remark upon Rear Admiral Sir Thomas Paſley's Report, I beg leave to obſerve, that the Rear Admiral confined his Obſervations particularly to the Ships of his own Diviſion.

Captain Molloy ſaid—As the Examination of more Witneſſes, upon Points attempted to be eſtabliſhed, has been deemed unneceſſary, and my Defence thereby cloſed ſooner than I expected, I am induced to entreat the Indulgence of the Court to allow me till To-morrow Morning, to look over the Minutes, and arrange ſuch Obſervations as may appear to be neceſſary for me to make, in the Offering of which to the Court, I will intrude upon their Patience but for a few Minutes.

The Court was cleared, and as it is ſtated in the laſt Obſervation of Captain Molloy in the Minutes, "As the Examination of more Witneſſes, upon Points attempted to be eſtabliſhed, has been deemed "unneceſſary, and his Defence thereby cloſed ſooner than he expected, "he deſired to be indulged 'till To-morrow Morning to look over the "Minutes, and arrange ſuch Obſervations as may appear to be neceſſary for him to make." The Court agreed that they were ready to hear any Evidence that Captain Molloy might deem neceſſary to adduce in Support of his Defence, but that he could not be permitted to make any Obſervations upon the Evidence, after it is cloſed.

Captain

Captain Molloy then deſired Permiſſion to read an Addreſs to the Court; in what he ſaid he ſhould not obſerve upon the Evidence, and which he ſaid would be prepared by To-morrow Morning, to which the Court agreed.

The Court then adjourned till To-morrow Morning at Ten o'Clock.

Fifteenth May, Ten o'Clock, A. M. The Court met according to Adjournment, Captain Molloy then read an Addreſs to the Court as follows:

" Mr. Preſident,

" I feel the Permiſſion I have obtained, and the Prohibition im-
" poſed upon me; however painfully I endure the latter, I will not
" miſuſe the former.

" Forbidden to touch a ſingle Material of the Evidence, out of the
" vaſt Heap that ſeemed to invite my Obſervation, I readily comply
" with the Order of the Court.

" But before I avail myſelf of any Permiſſion, which the Court is
" inclined to grant me, it would be deep Ingratitude, not to return
" my earlieſt Thanks to the Court, for their Honourable and manly
" Steadineſs, and Pains to forward the two prominent Objects of my
" Solicitude; a complete Inveſtigation—and a Welcome of Truth.

" Now comforted in the Arrival of Truth, after Eleven Months
" paſſed in wretched Anxiety, leſt any Part ſhould periſh, I ſhould
" ſtill be moſt unhappy, if any the leaſt Ingredient of my Conduct
" on the preſent Occaſion, has diſappointed the Claims which this
" Honourable Court had, and has upon me, either with Regard to the
" public Intereſt, to promote which, I hope, I am not an unworthy
" or uſeleſs Servant; with regard to the Commander in Chief, whom
" I honour and Reſpect, and to whom I am under the largeſt Obliga-
" tions; with regard to every becoming Delicacy towards my Brother
" Officers, or with regard to that Affection which I bear the Ser-
" vice; I hope, and truſt, that I have not diſappointed thoſe Ho-
" nourable Claims.

" I confeſs, that I thought my Rank in the Service (to ſay nothing
" of the Service I have ſeen), and the Situation in which I had placed
" myſelf; with that which is aſſigned as the only Foundation of the
" ſecond Charge, did intitle me to ſome Claims upon the Repreſenta-
" tive Proſecutor; and I as frankly confeſs that every one of thoſe
" Claims has been egregiouſly diſappointed.

" Now permit me, Sir, while I thank my God, in my own Caſe,
" to convey a kindred Compact to all my Brother Officers in the
" Britiſh Navy, by reminding them of this efficacious Truth, that
" a vigilant and active Performance of Duty, where alone it can be
" performed, and where alone it can be known to be performed, muſt
" for ever afford the beſt Anchor of Security to Reputation, to Ho-
" nour, and to the Rewards of Service.

" With this I hold my Reputation will be ſafe, however attacked;
" however the Attack is directed, and however it is managed by the
" ſtrenuous Exertions of a Proſecutor.

" Some Things, indeed, muſt ever remain the Subjects of Alarm to
" the

" the moſt perfect Innocence, while human Nature is continued; " namely, the differences of Capacity, and Underſtanding; the " Frailties of Memory; the Difficulties of Expreſſion, and the una- " voidable Embarraſſments which Art can produce, to confound the " Simplicity of Truth.

" Yet, comfortable and efficacious as the above mentioned Truth " is, when once the Deliberations of ſuch a Tribunal as this are " engaged, ſtill I well know, Sir, how deſtitute of any adequate " Conſolation is the Interval between an Accuſation and a Trial.

" From Accuſation, even my Wretchedneſs is carried far back, to " the firſt Channel of Inſinuation—and Accuſation was then torpid, " till ſtirred up to Action on my Petition.

" But it was Comfort to meet this Aſſembly; more Comfort to " mark their Progreſs, and, I truſt in God, the Conſummation of my " Hope, is not far diſtant in the Language of their Deciſion; to ſay " more, nay, indeed to have ſaid ſo much, without adverting to the " Materials of Proof in Evidence, is, and has been moſt difficult.

" Now, Sir, in the humiliating State of a Priſoner, I beg again to " offer the earneſt Gratitude of my Heart to the Court, for their in- " flexible Attention in the laborious Diſcharge of their high and " ſolemn Office; but no Words can expreſs the warm Emotions in " my Breaſt at their generous Patience, in liſtening to my whole " Conduct, as Captain of the Cæſar."

(Signed) A. P. MOLLOY."

He then produced a Paper Writing to the Court, which was read by the Judge Advocate, as follows:

" *The Charlotte at Spithead, 13th June, 1794.*

" The Admiral cannot omit the very grateful Part of his Duty, " that requires theſe his public Acknowledgements, to be made of the " highly diſtinguiſhed Examples of Reſolution, Spirit and Perſever- " ance, which has been teſtified by every Deſcription of Officers, " Seamen, and military Corps in the Ships of the Fleet, during the " ſeveral Actions with the Enemy, on the 28th and 29th of May " and 1ſt of the preſent Month, and which cannot be better affirmed " than by Reference to their Effects on thoſe Occaſions."

" Nor is the Merit of the Seamen of the Fleet leſs to be applaud- " ed, in their active and unwearied Exertions to put their Ships " again in a State for Service, ſo ſpeedily as it was completed after " thoſe Actions had ceaſed.

(Signed)

HOWE."

To Captain Molloy, Commander of his Majeſty's Ship Cæſar.

Sir Roger Curtis ſaid, that he did not know whether it was regular, nor was he ſure that it was irregular, to requeſt Permiſſion of the Court to make a few Obſervations in Explanation of the Thanks of Admiral Earl Howe then read; but he begged the Direction of the Court on that Subject.

The

The Court was cleared, and agreed, that the Evidence on both Sides being cloſed, no further Obſervations could be made.

The Court was cleared, and agreed, that the Charges had been proved againſt the ſaid Captain Anthony James Pye Molloy; but as it appeared to the Court, that in the Actions of the 29th of May, and Firſt of June laſt, as well as on many former Occaſions, his perſonal Courage was unimpeachable, did adjudge him, only, to be diſmiſſed from the Command of his Majeſty's Ship Cæſar.

The Court was again opened, Captain Molloy brought in, Audience admitted, and Sentence paſſed accordingly.

Ms. GREETHAM, Junr.
Judge Advocate for the Time being.

FINIS.